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सं. 12] नई दिल्ली, मार्च 19—मार्च 25, 2017, शनिवार/फाल्गुन 28, 1938—चैत्र 4, 1939
No. 12] NEW DELHI, MARCH 19—MARCH 25, 2017, SATURDAY/PHALGUNA 28, 1938—CHAITRA 4, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 15 फरवरी, 2017

का.आ. 749.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के उच्चायोग, इस्लामाबाद में श्री जितेंद्र कुमार शर्मा, सहायक अनुभाग अधिकारी को दिनांक 15 फरवरी, 2017 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2017]

प्रकाश चन्द, उप सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS
(CPV DIVISION)

New Delhi, the 15th February, 2017

S.O. 749.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Jitendra Kumar Sharma, Assistant Section Officer as Assistant Consular Officer in High Commission of India, Islamabad to perform the Consular services with effect from 15th February, 2017.

[No. T-4330/01/2017]

PRAKASH CHAND, Dy. Secy. (Consular)

दक्षकः

नई दिल्ली, 24 मार्च, 2017

दक्षक- 750-कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 86 (अ), तारीख 9 जनवरी, 2017, जो भारत के राजपत्र, असाधारण, भाग II, खण्ड 3, उप-खण्ड (ii), तारीख 10 जनवरी, 2017 में प्रकाशित की गई थी, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और भूमि में (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) या उस पर के सभी अधिकार उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर आत्यांतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और केन्द्रीय सरकार का यह समाधान हो गया है कि ईस्टर्न कोलफील्ड्स लिमिटेड, संकतोडिया, पोस्ट- दिशेरगढ़, जिला - बर्द्धवान - 713333, पश्चिम बंगाल (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए तैयार है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त भूमि में या उस पर के सभी अधिकार, तारीख 10 जनवरी, 2017 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :-

- (1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसानी और वैसी ही मदों के संबंध में किए गए सभी सदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
- (2) सरकारी कंपनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे और इस पर प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उसके संबंध में जैसे अपील इत्यादि सभी विधिक कार्यवाहियों के संबंध में उपगत, सभी व्यय भी, इसी भांति सरकारी कंपनी द्वारा वहन किये जायेंगे;
- (3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदाधिकारियों की, ऐसे किसी अन्य व्यय के संबंध में, क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमियों में या उस पर के अधिकारों के संबंध में, केन्द्रीय सरकार या उसके पदाधिकारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;
- (4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमियों को किन्हीं अन्य व्यक्तियों को अंतरित करने की शक्ति नहीं होगी ; और
- (5) सरकारी कंपनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमियों के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किये जाएं, पालन करेगी।

[फा.सं. 43015/14/2014-एलए एण्ड आईआर/जिल्द.II]

सुजीत कुमार, अवर सचिव

MINISTRY OF COAL

New Delhi, the 24th March, 2017

S.O. 750.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 86(E), dated the 9th January, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 10th January, 2017 issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and all rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas, the Central Government is satisfied that the Eastern Coalfields Limited, Sanctoria, Post - Dishergarh, District-Burdwan-713 333 (West Bengal) (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the all rights in or over the said land so vested, shall, with effects from the 10th

January, 2017 instead of continuing to so vest in the Central Government, vest in the Government Company, subject to the following terms and conditions, namely:-

- (1) The Government Company shall reimburse to the Central Government all payments made in respects of compensation, interest, damages and the like, as determined under the provision of the said Act;
- (2) A Tribunal shall be constituted under section 14 of the said Act for the purpose of determining the amounts payable to the Central Government by the Government Company under condition (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc., for or in connection with the rights, in or over the said lands, so vested, shall also be borne by the Government Company;
- (3) The Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested;
- (4) The Government Company shall have no power to transfer the said lands to any other persons without the prior approval of the Central Government; and
- (5) The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[F.No. 43015/14/2014-LA&IR/Vol.II]

SUJEET KUMAR, Under Secy.

नई दिल्ली, 24 मार्च, 2017

dk-vk- 751-&केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) के अधीन भारत सरकार में कोयला मंत्रालय के द्वारा जारी की गई अधिसूचना संख्या का. आ. 198(अ), तारीख 25 अगस्त, 2015 जो भारत के राजपत्र, भाग II, खंड 3, उप-खंड (i), तारीख 21 जनवरी, 2016 में प्रकाशित की गई थी, उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 499.074 हेक्टर (लगभग) या 1233.21 एकड़ (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विहित की गई उक्त भूमि के एक भाग में कोयला अभिप्राप्त है ;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 467.458 हेक्टर (लगभग) या 1155.09 एकड़ (लगभग) माप की भूमि और उक्त भूमियों में या उस पर सतही अधिकारों का अर्जन करने के अपने आशय की सूचना देती है;

fvli .k 1% इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक संख्या एसईसीएल/बीएसपी/जीएम/पीएलजी/भूमि/507, तारीख 24 जनवरी, 2017 का निरीक्षण कलक्टर, जिला शहडोल (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता - 700001 के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है।

fvli .k 2% उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध किया गया है :-

“8. अर्जन की बाबत आपत्तियाँ.— (1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7(1) के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्ही अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

Li "Vhdj .k-& इस धारा के अर्थान्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उप-धारा (1) के अधीन प्रत्येक आपत्ति सक्षम अधिकारी को लिखित रूप में की जाएगी और सक्षम अधिकारी, आपत्तिकर्ता को स्वयं सुने जाने का या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जाँच, यदि कोई हो, करने के पश्चात्, जो वह आवश्यक समझता है, वह या तो धारा 7 की उप-धारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्टें केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा, जो प्रतिकर में हित का दावा करने का हकदार होता, यदि भूमि या ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते ।”

ivli .k 3% केन्द्रीय सरकार ने कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 को उक्त अधिनियम की धारा 3 के अधीन, अधिसूचना संख्या का.आ. 905, तारीख 20 मार्च, 1987, जो भारत के राजपत्र, भाग II, खण्ड 3, उप-खण्ड (ii) में तारीख 4 अप्रैल, 1987 में प्रकाशित की गई थी, सक्षम प्राधिकारी नियुक्त किया है।

vud ph

खैरहा ब्लाक, सोहागपुर क्षेत्र

जिला-शहडोल (मध्य प्रदेश)

(रेखांक संख्या एसईसीएल/बीएसपी/जीएम/पीएलजी/भूमि/507 तारीख 24 जनवरी, 2017)

भू-सतह अधिकार:

क्रम सं.	ग्राम का नाम	पटवारी हल्का संख्या	बंदोबस्त संख्या	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियाँ
1.	खैरहा	93	203	बुढ़ार	शहडोल	271.459	भाग
2.	खन्नाथ	99	171	बुढ़ार	शहडोल	195.999	भाग
कुल : 467.458 हेक्टर (लगभग) या 1155.09 एकड़ (लगभग)							

- ग्राम खैरहा (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 2(भाग), 3, 4(भाग), 5(भाग), 6 से 50, 41/1127, 51(भाग), 52(भाग), 53(भाग), 55(भाग), 56 से 112, 113(भाग), 114, 117, 126(भाग), 127(भाग), 131 से 135, 136(भाग), 137 से 167, 167/1145(भाग), 167/1146, 168(भाग), 169 से 175, 176(भाग), 177 से 181, 182(भाग), 183(भाग), 184(भाग), 186(भाग) से 188(भाग), 189 से 192, 193(भाग), 195(भाग), 196, 197, 198(भाग), 200(भाग), 201(भाग), 202, 203(भाग), 204(भाग), 206(भाग), 207 से 212, 213(भाग), 214(भाग), 219(भाग), 220 से 230, 231(भाग), 232, 233(भाग), 275(भाग), 276 से 289, 290(भाग), 291, 292(भाग), 293(भाग), 294 से 297, 298(भाग), 299(भाग), 309(भाग) से 311(भाग).
- ग्राम खन्नाथ (भाग) में अर्जित किए जाने वाले प्लॉट संख्या: 6(भाग), 32(भाग) से 34(भाग), 35 से 37, 38(भाग), 39(भाग), 42(भाग), 43(भाग), 74(भाग), 75, 76(भाग), 77 से 79, 80(भाग), 81, 82(भाग) से 84(भाग), 114(भाग) से 116(भाग), 117 से 180, 181(भाग), 182 से 189, 190(भाग) से 192(भाग), 193, 194(भाग), 195 से 217, 218(भाग), 220 से 492, 493(भाग), 494 से 497, 498(भाग), 499, 500(भाग) से 502(भाग), 1134(भाग) से 1137(भाग), 1138, 1139(भाग), 1140 से 1154, 1155(भाग), 1156(भाग), 1157 से 1162, 1163(भाग) से 1166(भाग), 1167 से 1222, 1223(भाग), 1225(भाग) से 1228(भाग), 1229 से 1242, 1243(भाग) से 1248(भाग), 1249 से 1264, 1265(भाग), 1266(भाग), 1269(भाग).

l hek o.ku %

- क-ख रेखा, बिन्दु “क” से आरंभ होती है और ग्राम खन्नाथ के प्लॉट संख्या 191, 190, 181, 6, 32, 33, 34, 43, 42, 38, 39, 74, 76 से होती हुई बिन्दु “ख” पर मिलती है।
- ख-ग रेखा, बिन्दु “ख” से आरंभ होती है और ग्राम खन्नाथ के प्लॉट संख्या 84, 83, 82, 80, 114, 115, 116, 500, 501, 502, 498, 493, 1139, 493, 1137, 1136, 1135, 1134, 1155, 1156, 1163, 1164, 1165, 1166, 1266, 1265, 1269, 1248, 1247, 1246, 1245, 1244, 1243, 1228, 1227, 1226, 1225, 1123 से होती हुई ग्राम खैरहा-खन्नाथ के सम्मिलित सीमा में बिन्दु “ग” पर मिलती है।
- ग-घ रेखा, बिन्दु “ग” से आरंभ होती है और ग्राम खैरहा के प्लॉट संख्या 176, 183, 184, 186 से होती हुई बिन्दु “घ” पर मिलती है।
- घ-घ1-घ2-घ3-घ4-घ5 रेखा बिन्दु “घ” से आरंभ होती है और ग्राम खैरहा के प्लॉट संख्या 186, 187, 182, 1145, 169, 136 से होकर 136 के भागतः पश्चिमी सीमा, 126 से होकर, ग्राम खैरहा-खन्नाथ के भागतः सम्मिलित सीमा, 117, 114 के पूर्वी सीमा से होती हुई, 109, 113 से होकर 131, 132 के उत्तरी सीमा से होती हुई, 127 से होती हुई बिन्दु “घ5” पर मिलती है।

घ5-घ6	रेखा, बिन्दु "घ5" से आरंभ होती है और ग्राम खैरहा के प्लॉट संख्या 136, 168, 1145 से होकर 1146 के उत्तरी सीमा से होती हुई 182, 187, 186 से होती हुई बिन्दु "घ6" पर मिलती है।
घ6-ङ	रेखा, बिन्दु "घ6" से आरंभ होती है और ग्राम खैरहा के प्लॉट संख्या 186, 193, 195, 198, 200, 201, 203, 204, 206 से होती हुई बिन्दु "ङ" पर मिलती है।
ङ-च	रेखा बिन्दु "ङ" से आरंभ होती है और ग्राम खैरहा के प्लॉट संख्या 206, 214, 213, 219, 231, 233, 275, 298, 299, 293, 292, 290, 300, 309, 310, 311, 55 से होती हुई बिन्दु "च" पर मिलती है।
च-छ	रेखा बिन्दु "च" से आरंभ होती है और ग्राम खैरहा के प्लॉट संख्या 55, 53, 53/2, 53, 52, 51, 2, 4, 5 से होती हुई ग्राम खैरहा-खन्नाथ के सम्मिलित सीमा में बिन्दु "छ" पर मिलती है।
छ-क	रेखा बिन्दु "छ" से आरंभ होती है और ग्राम खन्नाथ के प्लॉट संख्या 218, 194, 192, 191 से गुजरती हुई आरंभिक बिन्दु "क" पर मिलती है।

[फा. सं. 43015/13/2017-एलए एण्ड आईआर]

सुजीत कुमार, अवर सचिव

New Delhi, the 24th March, 2017

S.O. 751.—Whereas by the notification of the Government of India in the Ministry of Coal number S.O. 198(E), dated the 25th August, 2015 issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), and published in the Gazette of India, part II, section 3, sub-section (ii), dated the 21st January, 2016, the Central Government gave notice of its intention to prospect for coal in 499.074 hectare (approximately) or 1233.21 acre (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And whereas, the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the land measuring 467.458 hectare (approximately) or 1155.09 acre (approximately) and surface rights in or over the said lands described in the Schedule appended hereto:

Note 1: The plan bearing number SECL/ BSP/ GM/ PLG/ LAND/ 507, dated the 24th January, 2017 of the area covered by this notification may be inspected in the office of the Collector, District Shahdol (Madhya Pradesh) or in the office of the Coal Controller, 1, Council House Street, Kolkata - 700001 or in the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 (Chhattisgarh).

Note 2: Attention is hereby invited to the provisions of section 8 of the said Act which provides as follows:-

"8. Objection to Acquisition.- (1) Any person interested in any land in respect of which a notification under section 7(1) has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or any rights in or over such land.

Explanation.- It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operation in the land for the production of coal and that such operation should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either makes a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act."

Note 3: The Coal Controller, 1, Council House Street, Kolkata-700001, has been appointed by the Central Government as the competent authority under section 3 of the said Act, vide notification number S.O. 905, dated the 20th March, 1987, published in part II, section 3, sub-section (ii) of the Gazette of India, dated the 4th April, 1987.

SCHEDULE

Khairaha Block, Sohagpur Area

District Shahdol, Madhya Pradesh

(Plan bearing number SECL/BSP/GM/PLG/LAND/ 507, dated the 24th January, 2017)

Surface Rights:

Sl. No.	Name of village	Patwari halka number	Bandobast number	Tahsil	District	Area in hectares	Remarks
1.	Khairaha	93	203	Burhar	Shahdol	271.459	Part
2.	Khannath	99	171	Burhar	Shahdol	195.999	Part
Total: 467.458 hectare (approximately) or 1155.09 acre (approximately)							

- Plot numbers to be acquired in village Khairaha (Part): 2(P), 3, 4(P), 5(P), 6 to 50, 41/1127, 51(P), 52(P), 53(P), 55(P), 56 to 112, 113(P), 114, 117, 126(P), 127(P), 131 to 135, 136(P), 137 to 167, 167/1145(P), 167/1146, 168(P), 169 to 175, 176(P), 177 to 181, 182(P), 183(P), 184(P), 186(P) to 188(P), 189 to 192, 193(P), 195(P), 196, 197, 198(P), 200(P), 201(P), 202, 203(P), 204(P), 206(P), 207 to 212, 213(P), 214(P), 219(P), 220 to 230, 231(P), 232, 233(P), 275(P), 276 to 289, 290(P), 291, 292(P) 293(P), 294 to 297, 298(P), 299(P), 309(P) to 311(P).
- Plot numbers to be acquired in village Khannath (Part): 6(P), 32(P) to 34(P), 35 to 37, 38(P), 39(P), 42(P), 43(P), 74(P), 75, 76(P), 77 to 79, 80(P), 81, 82(P) to 84(P), 114(P) to 116(P), 117 to 180, 181(P), 182 to 189, 190(P) to 192(P), 193, 194(P), 195 to 217, 218(P), 220 to 492, 493(P), 494 to 497, 498(P), 499, 500(P) to 502(P), 1134(P) to 1137(P), 1138, 1139(P), 1140 to 1154, 1155(P), 1156(P), 1157 to 1162, 1163(P) to 1166(P), 1167 to 1222, 1223(P), 1225(P) to 1228(P), 1229 to 1242, 1243(P) to 1248(P), 1249 to 1264, 1265(P), 1266(P), 1269(P).

Boundary description:

- A-B Line starts from point 'A' and passes in village Khannath through plot number 191, 190, 181, 6, 32, 33, 34, 43, 42, 38, 39, 74, 76 and meets at point 'B'.
- B-C Line starts from point 'B' and passes in village Khannath through plot number 84, 83, 82, 80, 114, 115, 116, 500, 501, 502, 498, 493, 1139, 493, 1137, 1136, 1135, 1134, 1155, 1156, 1163, 1164, 1165, 1166, 1266, 1265, 1269, 1248, 1247, 1246, 1245, 1244, 1243, 1228, 1227, 1226, 1225, 1123 and meets at point 'C' on the common boundary of villages Khannath-Khairaha.
- C-D Line starts from point 'C' and passes in Khairaha through plot number 176, 183, 184, 186 and meets at point 'D'.
- D-D1-D2-D3-D4-D5 Line starts from point 'D' and passes in village Khairaha through plot number 186, 187, 182, 1145, 169, 136, along partly western boundary of plot number 136, through 126, along partly common boundary of villages Khairaha-Khannath, eastern boundary of 117, 114, through 109, 113, along northern boundary of 131, 132, through 127 and meets at point 'D5'.
- D5-D6 Line starts from point 'D5' and passes in village Khairaha through plot number 136, 168, 1145, along northern boundary of 1146, through 182, 187, 186 and meets at point 'D6'.
- D6-E Line starts from point 'D6' and passes in village Khairaha through plot number 186, 193, 195, 198, 200, 201, 203, 204, 206 and meets at point 'E'.
- E-F Line starts from point 'E' and passes in village Khairaha through plot number 206, 214, 213, 219, 231, 233, 275, 298, 299, 293, 292, 290, 300, 309, 310, 311, 55 and meets at point 'F'.
- F-G Line starts from point 'F' and passes in village Khairaha through plot number 55, 53, 53/2, 53, 52, 51, 2, 4, 5 and meets at point 'G' on the common boundary of villages Khannath-Khairaha.
- G-A Line starts from point 'G' and passes in village Khannath through plot number 218, 194, 192, 191 and meets at starting point 'A'.

[F.No. 43015/13/2017-LA&IR]

SUJEET KUMAR, Under Secy.

वाणिज्य और उद्योग मंत्रालय**(औद्योगिक नीति एवं संवर्धन विभाग)**

नई दिल्ली, 23 मार्च, 2017

का.आ. 752.—केन्द्र सरकार प्रतिलिप्याधिकार अधिनियम, 1957 की धारा-10 की उपधारा (1) के तहत प्रदत्त शक्तियों का उपयोग करते हुए एतद्वारा श्री इकबाल सिंह जुनेजा को तत्काल प्रभाव से उप प्रतिलिप्याधिकार पंजीयक के रूप में नियुक्त करती है। प्रतिलिप्याधिकार अधिनियम, 1957 की धारा-10 की उपधारा (2) के अनुसार, वे पंजीयक द्वारा समय-समय पर अधिनियम के अन्तर्गत उन्हें सौंपे गए पंजीयक के कार्यों का प्रतिलिप्याधिकार पंजीयक के पर्यवेक्षण एवं निदर्शन में निष्पादन करेंगे।

2. यह अधिसूचना, इसके सरकारी राजपत्र में प्रकाशन की तारीख से प्रभावी होगी।

[फा.सं. 27-6/2014-सी ओ/आई पी आर-VII]

सुशील के. सातपुते, निदेशक (डी आई पी पी)

MINISTRY OF COMMERCE AND INDUSTRY**(Department of Industrial Policy and Promotion)**

New Delhi, the 23rd March, 2017

S.O. 752.—In exercise of the powers conferred by sub-Section (1) of Section 10 of the Copyright Act, 1957, the Central Government hereby appoints Shri Iqbal Singh Juneja as Deputy Registrar of Copyrights with immediate effect. As per the sub-Section (2) of Section 10 of the Copyright Act, 1957 he shall discharge under the superintendence and direction of the Registrar of Copyrights such functions of the Registrar under the Act as the Registrar may, from time to time, assign to him.

2. This notification shall come into force on the date of its publication in the Official Gazette.

[F.No. 27-6/2014-CO/IPR-VII]

SUSHIL K. SATPUTE, Director (DIPP)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 9 मार्च, 2017

का.आ. 753.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, बंदूक कैरिज फैक्टरी, जबलपुर एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 116/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.02.2017 को प्राप्त हुआ था।

[सं. एल-14012/135/98-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 9th March, 2017

S.O. 753.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 116/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on 15.02.2017.

[No. L-14012/135/98-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/116/2002**

Shri Ramadhar Tiwari
S/o Late Shri Ksirsagar
H/No.Dhruv Kumar Pathak,
Village Kanjai (Simria),
Tehsil Goteagoan,
Distt. Narsinghpur (MP)

...Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur

...Management

AWARDPassed on this 23rd day of January, 2017

1. As per letter dated 1-8-2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14012/135/98-IR(DU). The dispute under reference relates to:

“Whether the action of the General Manager, Gun Carriage Factory, Jabalpur (MP) in terminating the services of Shri Ramadhar Tiwari, T.No.2681/NIE, Hammerman w.e.f. 23-8-95 is legal and justified? If not, to what relief the workmen is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. Case of workman is that he was appointed on compassionate ground on post of sweeper after death of his father late Shivsagar. That he was successfully carrying his work. His service record was unblemished. That he met with accident on 3-8-93 and suffered rigorous injury with fracture on his hand. Workman was hospitalized in military hospital in same date for medical treatment. After workman was cured and was fit for duty, he submitted joining on 23-8-93 alongwith medical certificate. On same day, he was surprised that his services were terminated on 23-8-93 itself. He had approached higher authority of the department requesting to allow him on duty but did not get any response from the authorities. That the order of his termination was issued without reasons or showcause notice. Workman was not given opportunity for defence in the enquiry conducted by the department. Principles of natural justice were not followed while terminating his services. Order of termination of his services is void-ab-initio. On such ground, Ist party workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 6/1 to 6/8 opposing claim of workman. 2nd party submits that Ist party was appointed as sweeper on compassionate ground after death of his father. As per clause 2(b) of appointment letter, his appointment was on probation for period of two years. During probationary period, if his performance was not satisfactory, his services could be terminated without notice. That 1 ½ years after his appointment. Ist party workman was irregular in attendance. During period of 1 ½ years, he had not attended duty for 192 days which included 125 days LWP. Appointing Authority after six months reviewed his performance. The performance of Ist party was not satisfactory. He was not shown interest in the work. It is reiterated that performance of workman was deterioration. He absented from duty for 69 days. In last half yearly report for the month May to July 93, his performance was not satisfactory. Since his appointment in September 1991, the workman had absented from work for 259 days. Workman was allotted accommodation he submitted accommodation allotted to him. Workman was served with chargesheet on 26-11-92. The services of workman were terminated for poor performance during probation period. Government had refused to make reference. The Writ Petition 1525/99 was dismissed by Hon’ble High Court on 9-7-99. In appeal 459/99, Honble High Court passed order on 27-6-02 and directed Government to make reference. 2nd party referred to ratio held in various cases. All the adverse contentions of workman are denied. 2nd party prays that claim of workman could not be allowed. Reference be answered in its favour.

4. Ist party workman filed rejoinder at Page 8/1 to 8/3 reiterating contentions in statement of claim.

5. Workman died during pendency of reference proceeding. His LRs are brought on record.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the General Manager, Gun Carriage Factory, Jabalpur (MP) in terminating the services of Shri Ramadhar Tiwari, T.No.2681/NIE, Hammerman w.e.f. 23-8-95 is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. Point No.1- The term of reference pertains to legality of termination of services of Ist party workman. Case was fixed for filing evidence of workman on 21-5-08, 18-8-08, 24-11-08, 8-2-09, 11-5-09, 10-8-09, 17-12-09. Workman not adduced evidence. Workman reported dead on 22-4-2010. His LR's were brought on record. LR's also failed to adduce evidence. Case was fixed on 4-2-2011, 2-6-2011, 10-10-11. Evidence of LR's was closed on 16-1-2012.

8. Management filed affidavit of evidence of Shri A.K.Chourasia. from his evidence, documents M- to M-5 were admitted in evidence. Management's witness was not cross examined on behalf of Ist party. His evidence remained unchallenged. Document M-1 to M-5 produced in the matter are destroyed by white ants. Therefore management was asked to produce copies of those documents. As per Exhibit M-1, workman was absent for 148 days during 1992, 78 days during 1993. The workman was served with Exhibit M-2 warning for improving his work. The documents shows that workman had subletted accommodation allotted to him. As per exhibit M-3, his services were terminated during probation period on 28-8-93. Exhibit M-4 is the rules relating to appointment on probation period. Clause viii provides- "while the normal probation may certainly be extended in suitable cases, it is not desirable that an employee should be kept on probation for years as happened occasionally at present. It is therefore suggested that save for exceptional reasons, probation should not be extended for more than a year and no employee should be kept on probation for more than double the normal period."

9. Workman has failed to adduce evidence. Therefore I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the General Manager, Gun Carriage Factory, Jabalpur (MP) in terminating the services of Shri Ramadhar Tiwari, Hammerman w.e.f. 23-8-95 is proper and legal.
- (2) LR's of workman are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2017

का.आ. 754.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, गन कैरिज फैक्टरी, जबलपुर एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 289/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.02.2017 को प्राप्त हुआ था।

[सं. एल-14012/42/99-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 9th March, 2017

S.O. 754.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 289/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on 15.02.2017.

[No. L-14012/42/99-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR
NO. CGIT/LC/R/289/99

Shri Mewalal Lodhi,
House No.1193,
Lodhi Mohalla,
Gorakhpur,
Jabalpur (MP)

... Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur

...Management

AWARD

Passed on this 23rd day of January 2017

1. As per letter dated 25-8-1999 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14012/42/99/IR(DU). The dispute under reference relates to:

“Whether the action of the management of Gun Carriage Factory, Jabalpur in terminating the services of Shri Mewalal Lodhi T.No. 5266/MM Section is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 7/ to 7/7. Case of Ist party workman is that he was working as labour semi-skilled bearing T.No. 5266 of MM Section. He was working with honesty. That chargesheet was issued to him alleging misconduct of attempting to commit theft of Government property. Exparte enquiry was conducted against him. After enquiry, Disciplinary Authority vide order dated 22-4-96 imposed punishment of removal from service by General Manager. Thereafter vide order dated 11-6-96 again Disciplinary Authority passed order of removal from service w.e.f. 22-4-96. That the order dated 11-6-96 was passed by Dy.General Manager on behalf of General Manager. Said order refers to Disciplinary enquiry initiated against workman on chargesheet date 21-9-95 alleging admitting to steal Government property by workman. Workman claims he was never informed by the superior authorities about chargesheet dated 21-9-95. Only after issuing chargesheet, workman was asked by the management to submit his defence brief. Due to pressure by management giving false assurance by Higher Authorities for confessing his fault, leniency would be shown. Workman accepted charges against him. Enquiry was closed. He received order of removal dated 22-4-96. No enquiry was conducted against him. Order of removal was issued twice. Order dated 11-6-96 was uncalled. That management adopted unique method of imposing punishment. Appeal was dismissed. The action of management terminating his services is malafide, void-ab-initio. Workman reiterates that no enquiry was conducted against him before imposing punishment of removal. Punishment of removal was imposed twice is unwarranted. Action of management is perverse and deserves to be set aside. On such ground, Ist party prays for his reinstatement with backwages.

3. 2nd party filed Written Statement opposing claim of Ist party. 2nd party submits that Ist party was appointed as labour bearing token No. 5266/IE, MM Section on 30-3-80. On 25-8-95, 3.05 PM while unauthorisely going out of the main gate, workman was apprehended by security staff. On his search, steel bar concealed inside his pant was found. The orderly officer referred items recovered from his possession- steel bar 6 inch long 3 inch diameter weighing 7.570 Kgs was seized. The seizure memo was signed by all including the workman. Chargesheet was issued to workman. Vide his written explanation dated 15-12-95, workman accepted charges and expressed his remorse for his act committed by him. Workman begged to be excused. Workman requested not to hold enquiry. Considering written defence submitted and gravity of misconduct, the Disciplinary Authority imposed penalty of removal by order dated 22-4-96. Said order was published by factory on 11-6-96. 2nd party reiterates that chargesheet is issued to Ist party on 31-8-95. Workman was suspended on 21-9-95. Workman issued reminder on 17-10-95, 2nd reminder on 6-12-95 asking workman to submit reply to the chargesheet. Workman had submitted unsigned reply accepting charges. Thereafter workman submitted signed reply admitting charges. After receiving said reply, suspension of workman was revoked as per order dated 21-1-96. As workman admitted charges, punishment was imposed without conducting further enquiry. Appeal preferred by Ist party was rejected. In his reply dated 15-12-95, workman has not asked for any enquiry. In Written Statement of defence, all charges are accepted by Government servant, Disciplinary Authority may take such evidence as it may think fit and record its findings on each charge and take further actions as per Rule 65. W.r.t. 2 order of removal issued, 2nd party submits that it is an administrative channel that orders of Disciplinary Authority being published by Administrative Officer for implementation by all concerned. The order of removal from service was passed on 22-4-96 for the act of attempted theft inside the factory. It was not necessary to lodge FIR. Written Statement submitted by workman admitting guilt was accepted. That revocation of suspension is not a final penalty or exoneration. The contentions of Ist party w.r.t. revoke the suspension is incorrect. 2nd party submits reference be answered in its favour.

4. Considering evidence adduced by parties including evidence of handwriting expert, as per order dated 19-1-16, enquiry conducted against workman is found legal and proper.
5. Considering pleadings on record and orders on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the charges alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. Point No.1: Enquiry conducted against workman is found legal as per order dated 19-1-2016. Said order has not been challenged and as such the order has become final. Whether charges alleged against workman are proved from evidence in enquiry proceedings needs to be decided from the record of Enquiry Proceedings. Report Exhibit M-1 given by Shri S.K.Dutta Security Officer refers to recovery of steel bar 6 inch long 3 inch diameter weighing 7.570 Kgs. The statement of K.S.Kori, Pradeep Jha, A.K.Shrivastava, Babulal, D.S.Bist Security, JCO and seizure memo were sent along with his report. Exhibit M-1(2) It party workman was suspended on 30-8-95. The chargesheet Exhibit M-1(3) was issued to workman on 21-9-95 alongwith memo of charges w.r.t. incident dated 25-8-95 attempt to commit theft of steel bar 6 inch long 3 inch diameter weighing 7.570 Kgs. As per letter Exhibit M-1(4) dated 17-10-95 explanation of workman was called. 2nd letter calling explanation was issued on 6-12-95. Workman submitted his explanation Exhibit M-1(6) admitting the charges expressing his foolishness how he committed the act. However it was noticed that Exhibit M-1(6) was not signed by workman. Workman again sent his signed explanation Exhibit M-1(7) merely admitting misconduct alleged against him. The suspension of workman was cancelled as per Exhibit M-1(9) from 20-6-96. Said document finds reference to 31-8-95. The services of Ist party workman was removed from service from 24-4-96 Exhibit M-10 by General Manager. So far as order of removal Exhibit M-11 dated 11-6-96 find clear reference of order of removal dated 22-4-96 it cannot be said separate order of removal rather punishment order sent for publication to all concerned. As Ist party workman has admitted charges, from evidence of handwriting expert, documents Exhibit M-5 is proved. The opinion is clear that signatures on questioned documents and admitted documents were of the same person. For reasons discussed above, I record my finding in Point No.1 in Affirmative.

7. Point No.2- In view of my finding in Point No.1 punishment of removal is imposed against workman for admitted charge of committing theft of steel bar 6 inch long 3 inch diameter weighing 7.570 Kgs, whether punishment of removal imposed for said admitted misconduct is proper and legal is to be decided.

8. Workman filed affidavit of his evidence on other issues denying charges against him. That he had not admitted charges. After his termination, he is unemployed. He and his family members suffers hardship. He has no other source of income. In his cross, workman says his family consists of his wife and two children, daughter if of 15-16 years of age, son of 4 years of age. They reside in ancestor kacha house, his children goes to school. Monthly expenses of his family is about 8000 to 9000 Rs. That punishment of removal is imposed for admitted misconduct of admitted theft, the hardship suffered by the family could not be a ground for setting aside the punishment.

9. Shri A.K.Shashi relies on ratio held in case between-

Union of India and others versus B.K.Srivastava reported in 998(6)SCC-340. Their Lordship dealing with scope of judicial review in the matter of Departmental Enquiry held that enquiry report and penalty based thereon set aside by CAT for non-observance of principles of natural justice. On facts however found that sufficient opportunity was given to respondent employee and that it was not a case of no evidence the interference by CAT was criticized.

In present case, enquiry conducted against workman is found legal. The ratio cannot be beneficially applied to case at hand.

Next reliance is placed in case between Vivekanand Sethi versus Chairman, J&K Bank Ltd. and others reported in 2005(5)SCC-337. Ratio held in the case pertains to abandonment of service. VRs taken by 58 bank employees pertain to clause (ii) of Bipartite settlement.

The facts of present case are entirely different, ratio held in the case cannot be applied to case at hand.

In case between Chairman-cum-Managing Director, Coal India Ltd versus Mukul Kumar Choudhuri reported in AIR-2010-SC-75. Their Lordship dealing with departmental enquiry delinquent admitting charges conclusion arrived by Enquiry Officer about proof of charges. Their lordship held absence of any procedure illegal or irregular in conduct of DE, it has to be held that charges against workman held proved and wanted no interference.

In present case, workman admitted charges against him as per Exhibit M-1(6, 7). No evidence is adduced that workman was induced or forced to admit charges. While dealing with order of preliminary issue, the detailed reasons are discussed that workman had failed to disclose name of any of the Bank Officer pressurizing or inducing to admit the charges. The punishment of removal imposed against workman cannot be said shockingly disproportionate to the charges proved against him. No interference is called in the order of punishment of removal. For above reasons, I record my finding in Point No.2 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management of Gun Carriage Factory, Jabalpur in terminating the services of Shri Mewalal Lodhi T.No. 5266/MM Section is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2017

का.आ. 755.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार अधीक्षक, हेड पोस्ट ऑफिस, मध्य प्रदेश एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 197/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.11.2016 को प्राप्त हुआ था।

[सं. एल-40012/102/98-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 9th March, 2017

S.O. 755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 197/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the employers in relation to the Superintendent, Head Post Office, Madhya Pradesh and their workman, which was received by the Central Government on 02.11.2016.

[No. L-40012/102/98-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/197/99

Shri Kalusingh Verma,
C/o Shri R.K.Khanuja, Advocate,
28, Advocates Colony,
Idgah Hills,
Bhopal

...Workman

Versus

Superintendent,
Head Post Office, Agra Bombay Road,
Dewas (MP)

... Management

AWARD

Passed on this 17th day of October 2016

1. As per letter dated 6-5-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-40012/102/98/IR(DU). The dispute under reference relates to:

“Whether the action of the Superintendent, Head Post Office, Agra Bombay Road, Dewas (MP) in terminating the services of Shri Kalusingh Verma is legal and justified? If not, to what relief the workman is entitled ?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/4. Case of Ist party workman is that he was initially appointed as peon on 5-12-79 in 2nd party department. His service record was satisfactory. He was also selected for post of postman but malafidely appointment was not given to him. He was posted at Dewas. He was illegally dismissed from service on 31-7-90. Ist party workman reiterates that formal enquiry was conducted against him. He was not given reasonable opportunity for his defence. Rules of natural justice was not followed. Chargesheet issued to him was vague. His request for specifying charges were not considered. He alleged that false case was preferred against him by the department. Material documents were not supplied to him with the chargesheet. He could not effectively submit his reply. Reply to the chargesheet was not considered and domestic enquiry was initiated against him. He was not informed about appointment of Enquiry Officer. Enquiry Officer was prejudiced against him. His request for change of Enquiry Officer was not considered. His request for supplying material documents was not considered by the Enquiry Officer. The proceedings of enquiry and statement of witnesses were not read over to him. He was compelled to sign the Enquiry Proceedings. The statements of management's witnesses were recorded in presence of other witnesses violating principles of natural justice. He was not allowed opportunity to cross examine management's witnesses. Enquiry Officer did not consider evidence on record while holding that charges were proved against him. The findings of Enquiry Officer are perverse. The punishment of dismissal imposed against him is excessive and amounts to victimization. Ist party also alleged unfair labour practice and colourable exercise of powers by competent authority mechanically imposing punishment of dismissal.

3. Ist party further submits that incident of theft had occurred on 1-1-1989 at Indore. The watchman dismissed from service after DE was subsequently reinstated in appeal. On such ground, workman prays for his reinstatement with backwages setting aside order of his dismissal.

4. 2nd party management filed Written Statement at Page 9/1 to 9/3 opposing claim of Ist party. 2nd party submits that workman was appointed as Grade D employee/ watchman in postal department at Dewas Head Office. Ist party was assigned duty from 6 PM to 6 AM. However Ist party reported to duty at 8 PM- 2 hours after the schedule time. On the relevant date, theft of cash Rs.1,05,514.90 was committed. Ist party workman failed to detect theft and reporting to the police authorities. The incident was reported by Gaikwad, Assistant Post Master, Dewas at 11.30 AM to police. The omission covered under Rule 14 of CCS CCA Rules 1965. The Disciplinary Authority appointed Enquiry Officer. Enquiry was conducted following principles of natural justice. Workman was offered opportunity to prove his innocence. Ist party failed to do so therefore he was removed from service considering his failure to perform his duties. It is reiterated that punishment of removal imposed against workman is commensurate to the proved charges. Management shown readiness to lead oral evidence about incident. It is reiterated that the action taken by the management is proper and legal. The findings of Enquiry Officer were considered before imposing punishment of removal from service. workman was given proper opportunity during Enquiry Proceedings. 2nd party prays for dismissal of the claim.

5. Ist party workman died on 27-9-05, his LRs are brought on record. Legality of enquiry was not disputed by Ist party. The issues were framed as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether charges alleged against workman are proved from evidence in enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Negative
(ii) If so, to what relief the workman is entitled to?”	As per final order.

REASONS

6. Point No.1- As stated above, legality of enquiry is not disputed by Ist party, question remains whether charges alleged against workman are proved from evidence in Enquiry Proceedings. Charge alleged against workman are proved from evidence in Enquiry Proceedings. Charge alleged against workman pertains to on 12-2-89, he was assigned duty in Head office from 6 PM. Workman attended duty at 8 PM. Due to dereliction of duty, theft of Rs.1,05,514.90 was committed. 2nd part of charge is that workman had also failed to report incident of theft to police. The incident was reported by Shri Gaikwad at 11.30 PM. Workman lacked devotion in duty. During course of argument, learned counsel for Ist party Shri Pranay Choubey reiterated that workman had attended duty of watchman at

6 PM. The charges alleged against him were incorrect. Workman had not attended duty at 8 PM. Incident of theft had not occurred during his duty period. My attention was also pointed out to the statements of 4 management witnesses examined in the enquiry. As legality of enquiry is not disputed, it is not necessary to deal with the point of fairness of enquiry. The evidence of management's witness No.1 Pradeep Parokar has supported the charges that workman had come to the office at 8 AM. He had told workman Shri Kalusingh Verma that the door of the cash was broken similar evidence is given by witness Shri J.P.Dixit. statement of witness Shri Kalusingh was also recorded. He reiterated that he attended duty at 6 PM and after noticing the door opened, he gone along with Pradeep Parokar had gone to house of Dixit, they gone to house of clerk Mr. Parate. Statement of Parate and Gaikwad corroborates evidence of management's witnesses Pradeep Parokar. If entire evidence is carefully appreciated no reason is extracted in cross examination of Pradeep Parokar and clerk Mr. Parate why they are telling lie against workman. Statement of workman Kalusingh that they had gone to house of Shri Dixit and around 6.30 PM, they stayed there till 9 PM. Thereafter sister of Shri Dixit came out and told that Shri Dixit had gone to Indore. Said statement of workman Kalusingh is not corroborated by any of the witnesses during cross-examination. In Enquiry Proceedings, burden of proof is not strict of a degree to prove the charges beyond reasonable doubt. The matter needs to be considered on the basis of probabilities. The findings of Enquiry Officer are supported by evidence of management's witness Pradeep Parokar. Only after workman Kalusingh had come, they gone to house of Shri Dixit. The findings of Enquiry Officer cannot be said perverse. The evidence of management's witnesses is sufficient to prove charge No.1 that workman had failed to attend he was on duty at 6 PM. During course of argument, there was no dispute that workman was assigned watch duty. The duty register is produced on record. The register of department of post is also produced. The charge against workman doesnot pertain to workman committed theft. Rather he attended head office at 8 PM instead of 6 PM. Charge No.1 is proved from evidence on record. W.r.t. charge No.2 the evidence on record shows that incident of theft was reported by Shri Gaikwad, APM. Workman was on watch duty in Head office. It cannot be expected to report incident of theft to police without informing his superior officers. Ist party workman could not be expected to know how much cash was kept in the cash chest. His failure to report incident to the police therefore cannot be said dereliction in duty in my considered view, charge No.2 cannot be proved against Ist party workman. To conclude, only charge No.1 is proved against workman. For above reasons, I record my finding in Point No.1 that charge No.1 is proved against workman.

7. Point No.2- In view of my finding in Point No.1 charge No.1 is proved against workman, workman attending duty at 8 PM instead of 6 PM on 12-2-89 and shown dereliction in his duties, the question remains for consideration whether the punishment of removal from service imposed against workman is legal or whether punishment imposed is shockingly disproportionate. Charge No.1 against workman pertains to dereliction in duty attending duty two hours late. There is no evidence on record that theft of cash occurred during his duty hours. At what time, the incident of theft was committed, the evidence is not adduced. The proved charge is only Ist party workman attending duty two hours late. The punishment of removal from service therefore is shockingly disproportionate.

8. Shri P.Choubey in support of his argument relies on ratio held in case between-

Rajinder Kumar Kindra versus Delhi Administration reported in AIR-1984-SC-1805. The facts of above cited case are not comparable. In above cited case, the matter was referred to arbitration. The arbitrator is held that findings of Enquiry Officer were based on no legal evidence therefore perverse and enquiry was vitiated.

In present case, legality of enquiry is not disputed by Ist party therefore the ratio held in the case cannot be beneficially applied. Even the charges alleged in above case pertain to fraudulent use of the cheque.

9. Considering the proved charge No.1, Ist party workman had attended his watch duty 2 hours late 8 PM instead of 6 PM, the punishment of removal from service is highly excessive and shockingly disproportionate. In my considered view, for proved charge No.1 punishment of stoppage of two increments with cumulative effect would be appropriate. Therefore dismissal of workman from service cannot be sustained. Further question remains for consideration as to what relief can be granted in the matter. Ist party workman was dismissed from service on 31-7-90. The dispute is referred as per letter dated 6-5-99 after almost 9 years. Though LR's widow of deceased workman filed affidavit of her evidence, he failed to appear for her cross examination.

10. Management's witness Shri M.L.Verma filed affidavit of evidence. The witness of management was not cross examined. His evidence remained unchallenged. There is no evidence on record after removal from service, workman was employed or doing any work. Considering absence of such evidence, it would be appropriate to direct reinstatement of workman with 40 % backwages from the date of order of reference 6-5-99. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:-

- (1) The action of the management in dismissing Ist party workman on 31-7-90 is not legal. The order of dismissal is set aside. The punishment of dismissal is modified to punishment withholding two increments of deceased workman Kalusingh with cumulative effect.

- (2) 2nd party is directed to give retiral benefits and pay 40 % backwages of deceased workman Kalusingh to his widow from date of reference 6-5-99 till age of superannuation or death of workman Kalusingh.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2017

का.आ. 756.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जिला प्रबंधक, बीएसएनएल, मध्य प्रदेश एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 69/08) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.11.2016 को प्राप्त हुआ था।

[सं. एल-40012/11/2008-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 9th March, 2017

S.O. 756.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 69/08) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the employers in relation to the District Manager, BSNL, Madhya Pradesh and their workman, which was received by the Central Government on 02.11.2016.

[No. L-40012/11/2008-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/69/08

Shri Haricharan Balmik,
R/o Behind Dr.Kridesh Khare,
Ward No.12, Chhattarpur (MP)

...Workman

Versus

District Manager,
Bharat Sanchar Nigam Ltd.,
Chhattarpur (MP)

...Management

AWARD

Passed on this 5th day of October, 2016

1. As per letter dated 2-6-08 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/11/2008-IR(DU). The dispute under reference relates to:

“Whether the action of the management of District Manager, Telecom, BSNL Chhattarpur in terminating the services of their workman Shri Haricharan Balmik w.e.f. September 2007 is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. Case of Ist party workman is Telegraph office at Mahal, Tehsil area in Chhattarpur was established in October 1989. He was then employed by Competent Authority of Telegraph office since October 1989 as part time sweeper calling name from Employment Exchange. That he had rendered continuous service more than 240 days during all the years. The certificate was issued that he continuously rendered service from 1992 to 1997. He was receiving wages Rs.12 per day for working 4 hours duty of sweeper. Initially he was paid Rs.10 per day. BSNL issued direction dated 16-10-00 to the

authorities including TDE Chhatarpur for conversion of part time casual labours working 4 hours per day into full time casual labours. Ist party workman got knowledge about said letter and immediately submitted representation dated 29-11-00 requesting the conversion of part time labour to full time labour. The representations were also submitted on 6-10-99, 20-9-00, 29-1-00. Shri A.L.Kashyap, Incharge officer declined to provide the details of the service rendered by workman to deprive full time casual status. Representations was also submitted by him on 31-7-02 to Divisional Engineer, Adm. Office, District Manager, BSNL Chhatarpur for giving him status of Grade D post. Looking into certificate of experience of 5 years. He was not given said benefit. His services were illegally retrenched in September 07 without issuing notice. He was not paid compensation in lieu of notice, termination of his service is in violation of Section 25-F of ID Act. Ist party has reiterated that he rendered more than 240 days continuous service required under Section 25 B of ID Act. On such ground, workman claims reinstatement with consequential benefits.

3. 2nd party filed Written Statement opposing claim of workman. 2nd party reiterates that workman was not employed by the management as part time sweeper. He was never engaged or employed by the management. There is no question of Ist party workman completed 240 days continuous service. The certificate issued by Telegraph master is not valid as he was not competent to issue the certificate. It is denied that workman was paid Rs.12 per day for 4 hours working or earlier he was paid Rs.10 per day. It is denied that Incharge Officer declined to provide details of service of workman when called by superior office. Workman was in continuous service as sweeper therefore he is not entitled to any relief. Termination of services of workman in violation of Section 25-F, G,H of ID Act has been denied. 2nd party prays that claim of Ist party is liable to be dismissed.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of District Manager, Telecom, BSNL Chhattarpur in terminating the services of their workman Shri Haricharan Balmik w.e.f. September 2007 is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

5. The term of reference pertains to legality of termination of workman. Ist party workman filed affidavit of evidence supporting his contentions in statement of claim. That from October 1989, he was employed as part time sweeper by Competent Authority by Telegraph Officer, Chhatarpur. That he rendered continuous service more than 240 days during any calendar year. That certificate was issued in his favour about working as sweeper during 1992 to 1997. He was getting Rs. 12 per day for 4 hours working initially, he was paid Rs.10 per day. He submitted representation after getting knowledge of directions issued by BSNL on 16-10-00 for conversion of part time casual labours working more than 4 hours per day as full time casual labour. That the Incharge Officer L.Kashyap had declined to provide details of his service rendered. In his cross-examination, Ist party says post on which he was working was not advertised. He had received letter from Employment Exchange for part time employment in office of 2nd party but he was not able to give explanation why zerox copy of appointment letter is not produced on record. That he was paid wages by Kashyap and not by Account office. His signatures were obtained on MPR for payment of wages to him. Correspondence from office of managem3nt was made on its letter pad. He denies that appointment letter was not given to him. Ist party workman produced document Exhibit W-1 directions issued on 16-10-00 for absorbing part time casual labours working 4 hours per day into casual labours. Ist party workman has not produced letter of appointment or his documents about working in the office of 2nd party. He has not examined any co-employee.

6. 2nd party filed affidavit of Shri B.K.Pateria supporting contentions in Written Statement filed by 2nd party. That Ist party was never employed, there was no question of completing 240 days working workman was not terminated, there was no question of giving him benefit of permanent status. In his cross-examination, management's witness denies that workman was engaged as part time sweeper from October 1989. Management's witness claims ignorance w.r.t. circular dated 16-10-00 of conversion of part time employees as full time employees. Management's witness in his cross examination reaffirms that workman was never employed, he was not paid wages under voucher. Workman was not terminated without service from September 07. Evidence of Ist party workman is not corroborated by documentary evidence or evidence of any co-worker. Therefore his evidence is not sufficient to establish that he was working with 2nd party as part time sweeper or he completed 240 days working. The engagement as well as termination of his service by 2nd party is not established. Therefore I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

- (1) Workman has failed to established his engagement or termination as illegal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2017

का.आ. 757.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, गन कैरिज फैक्टरी, जबलपुर एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 1/08) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.11.2016 को प्राप्त हुआ था।

[सं. एल-14012/22/2007-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 9th March, 2017

S.O. 757.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 1/08) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on 02.11.2016.

[No. L-14012/22/2007-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/1/08

Shri Pushraj Kori,
House No. 1631, Khai Mohalla,
Hanuman Taal,
Jabalpur

...Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur

...Management

AWARD

Passed on this 20th day of October 2016

1. As per letter dated 7-12-08 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14012/22/2007-IR(DU). The dispute under reference relates to:

“Whether the action of the Chief General Manager, Gun Carriage Factory, Jabalpur in terminating the services of their workman Shri Pushraj Kori w.e.f. 13-4-07 is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 5/1 to 5/6. Case of Ist party workman is that he was appointed in 2nd party as labour on compassionate ground after death of his father. Chargesheet was issued to him on 18-12-05 alleging misconduct of theft of Government property and keeping government property is in possession. He had submitted reply to chargesheet on 2-1-06. Management decided to conduct enquiry against him. Miss Midita Mishra was appointed as Enquiry Officer and Shri Banerjee as Presenting Officer. Shri Doodhnath Singh was his Defence Assistant in the Enquiry Proceedings. The statements of 5 witnesses of management were recorded in the Enquiry Proceedings. Statement of management's witnesses were inconsistent. He had submitted list of 5 defence witnesses. However management considered only

Shalini Devi as defence witness, other witnesses were not considered. Defence Witness was not called. Enquiry was proceeded ex parte. Ist party workman submits that Enquiry Officer submitted his report holding charges against him are proved. The findings of Enquiry Officer are perverse. Punishment of dismissal was imposed against him is illegal. The appeal preferred by him was dismissed without speaking orders. Ist party workman reiterates that enquiry was conducted in violation of procedure prescribed under CCS CCA rules. The defence witness was not called, enquiry was conducted without giving specific notice. The Disciplinary Authority did not properly appreciate the evidence. Appellate Authority also did not consider the evidence properly. On such ground, workman submits that order of his dismissal is legal. He prays for his reinstatement with consequential benefits.

3. 2nd party filed Written Statement opposing claim of workman. Workman was appointed on compassionate ground after death of his father Heeralal Kori. Chargesheet was issued to him. On such workman was found in possession of brass metal of different size. Enquiry was conducted against workman following the rules. Enquiry Officer was appointed to Medita Mishra and Presenting Officer Shri Banerjee. Shri Doodhnath Singh was defence Assistant for workman. Enquiry was conducted on various dates, details given in Para 10 of the Written Statement. On application of workman, Hindi translation was submitted on the written proof submitted by management. Enquiry Officer submitted his report on 18-12-05 holding charges against workman are established. The report was forwarded to workman along with showcause notice. Considering evidence in Enquiry Proceedings and report of Enquiry Officer, punishment of dismissal was imposed. The appeal preferred by workman was dismissed on 11-6-08. 2nd party reiterates that considering proved misconduct imposed against him is legal. 2nd party submits that workman is not entitled to any relief.

4. As per order dated 23-11-15, enquiry conducted against workman is found proper and legal.

5. Considering pleadings on record and findings on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the charges alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. As enquiry conducted against workman is found legal, question remains for consideration is whether charges alleged against workman are proved from evidence in Enquiry Proceedings or the findings of Enquiry Officer are perverse.

7. Counsel for Ist party workman Shri P.Yadav did not advanced any argument on other issues.

8. Shri A.K.Shashi for management pointed out my attention to the evidence in Enquiry Proceedings, evidence of the management's witnesses is disclosed in Enquiry Report. That Leeladhar, witness No. 4 on 28-11-05 had routinely checked Pushpraj while he was going out of factory. He found tiffin box very heavy. Workman was taken to JCM. On opening of tiffin, brass was found inside. In statement of witness No. MW-2, he had stated that after workman was taken for search, his tiffin was opened, his tiffin was packed with piece of brass. On search in person, small brass was found inside the trouser of the workman witness No.1 Adverd in his statement says on 28-11-05, he was in day shift at maingate, formeman at security office caught the workman at Vidyanagar gate. Shri Pushpraj was confined at Vidya Nagar Gate. He along with Joshi Darban had confiscated tiffin at security office. Seizure memo was prepared. The scope of judicial review is limited. The evidence cannot be re-appreciated though the workman in his statement of claim had contented that there are inconsistency in evidence of management's witnesses, re-appreciation of evidence is not permissible. The findings of Enquiry Officer are supported by some evidence. Evidence of witnesses of management discussed above is sufficient to prove charges against workman therefore for above reasons, I record my finding in Point No.1 in Affirmative.

9. In view of my finding in Point No.1 charges against workman pertains to theft of brass material and explained possession of articles with workman have been found, the punishment of dismissal imposed against workman cannot be said shockingly disproportionate. The proved charges against workman are of grave nature. Therefore I record my finding in Point No.2 in Affirmative.

10. Shri A.K.Shashi learned counsel for management relies on ratio held in

Case between R.S.Saini versus State of Punjab and others reported in 1999(8)SCC-90. Their Lordship dealing with judicial review in the matter of DE held if there is some evidence to reasonably support finding of inquiring authority, the court in exercise of its writ jurisdiction would not reverse the finding on the ground of insufficiency of evidence.

The copies of award passed in R/38/90, 112/95 are also submitted for my perusal. Each matter needs to be decided considering the evidence on record.

In present case from evidence in Enquiry Proceedings, charges alleged against workman are proved. Proved charges are of serious nature. The punishment of dismissal doesnot call for interference. Workman is not entitled to any relief. Accordingly I record my finding in Point No.3.

11. In the result, award is passed as under:-

- (1) The action of the Chief General Manager, Gun Carriage Factory, Jabalpur in terminating the services of their workman Shri Pushpraj Kori w.e.f. 13-4-07 is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2017

का.आ. 758.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, आयुध निर्माणी, जबलपुर एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 47/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.11.2016 को प्राप्त हुआ था।

[सं. एल-14012/15/14-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 9th March, 2017

S.O. 758.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 47/14) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, Ordnance Factory, Jabalpur and their workman, which was received by the Central Government on 02.11.2016.

[No. L-14012/15/14-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/47/14

Shri Pratap Singh,
S/o Shri Bhairav Singh,
HQ.4/2, Khamaria,
Jabalpur

...Workman

Versus

General Manager,
Ordnance Factory,
Khamaria, Jabalpur

...Management

AWARD

Passed on this 20th day of October 2016

1. As per letter dated 27-5-14 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14012/15/14-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Ordnance Factory, Khamaria, Jabalpur (MP) in terminating the services of Shri Pratap Singh S/o Bhirav Singh, Ex-Ward Sahayak on daily wages basis w.e.f. last week of May 2010 without complying with the provisions of ID Act, 1947 is just, reasonable and valid? If not, what relief he is entitled to and from which date?”

2. After receiving reference, notices were issued to the parties. Despite repeated notices issued, Ist party failed to appear. Workman is proceeded ex parte as per order dated 12-4-2016.

3. 2nd party filed Ex parte Written Statement in the matter. The contentions of 2nd party in its Written Statement are that after following recruitment process, 11 ward attendants including 6 male and 5 female was selected. However 4 attendants 1 male and 3 females were working at the relevant time. 7 Ward attendants were recruited in November 2009. Only 5 persons reported to duty therefore management decided to engage 3 ward attendants on daily wages from local market. The sanction was given as per the office note. Ist party workman was not selected in the recruitment process. He was engaged on daily wages. He had not completed 240 days continuous service therefore Ist party is not covered as workman and he is not entitled to any relief.

4. Management's witness Shri S.K.Paitra filed affidavit of his evidence supporting contentions in statement of claim Ist party workman has not participated in reference proceeding. Evidence of management's witness is unchallenged. I find no reason to disbelieve evidence of management's witness. Management has also produced documents relating to the selection and appointment of Ward Attendants, certified copies of documents in R/8/12 have been produced. For reasons discussed above, award is passed as under:-

“Workman failed to participate in reference. The reference is answered in favour of the management.”

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 मार्च, 2017

का.आ. 759.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, दूरसंचार और अन्य भोपाल एवं उनके कर्मचारी, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 107/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.11.2016 को प्राप्त हुआ था।

[सं. एल-40012/51/2001-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 9th March, 2017

S.O. 759.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 107/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the employers in relation to the General Manager, Telecom and other, Bhopal and their workman, which was received by the Central Government on 02.11.2016.

[No. L-40012/51/2001-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/107/2001

Shri Shiv Ram Singh,
S/o Shri Tulsiram Singh,
C/o R.S. Mishra, Gali No.5,
Gupta Colony, Anand Nagar,
Bhopal

...Workman

Versus

General Manager, Telecom,
CTO Building, T.T.Nagar,
Bhopal

Assistant Engineer(Telecom),
Railway Electrification, E-3/79,
Arera Colony, Bhopal

...Management

AWARD

Passed on this 5th day of October 2016

1. As per letter dated 29-5-01 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/51/2001-IR(DU). The dispute under reference relates to:

“Whether the action of the management of General Manager Telecom/ Assistant Engineer (RE), Bhopal in terminating the services of Shri Shivram Singh S/o Shri Tulsiram Singh w.e.f. April 1990 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/5. Case of Ist party workman is that he was appointed as labour from 24-5-87 till 31-3-90. He was discontinued in April 1990. He had continuously worked more than 240 days during calendar years. He acquired rights of regular employee under Section 25-F of ID Act. That his services could not be terminated without following mandatory provisions issuing one month's notice. That he was not given one months notice before terminating his services. The termination of his service is in violation of principles of natural justice and discriminatory. Ist party further submits that he along with Shri Narendra Singh, Ajay Singh, Munir Khan, Shiv Singh, Jamuna Prasad and Jhali Prasad were employed by 2nd party shown in letter dated 9-6-89. In above referred letter, all other employees are regularized only workman was denied regularization. Order of his termination is discriminatory. The attitude of 2nd party is unlawful. The representation submitted by workman were not decided according to law which resulted in miscarriage of justice. Ist party workman further submits his services are terminated without giving reasonable hearing. His wrongful termination cannot be sustained.

3. Ist party further submits that 2nd party issued policy for regularization on 25-6-90. As per said scheme, services of Ist party workman were liable to be regularized. Ist party workman was denied benefit of policy scheme. Employees who were appointed after 1988 were also given benefit of the scheme. Benefit of regularization was denied to him. That junior employees Birendra Singh was regularized in service as per order dated 24-8-93. 2nd party acted arbitrarily denying regularization benefits as per the scheme. As per letter dated 20-1-94, Ist party workman had requested to take him in service, his applications for re-employment / regularization were not considered. Assistant Director, MP Telecom, Bhopal issued letter dated 20-9-95 enquiring in the matter of regularization of casual labours like Ist party workman. 2nd party did not take any steps for regularizing his services. Ist party was facing hardship as a genuine claim for regularization was not accepted. Ist party workman was also not accorded status of temporary employees. That before transferring services to Railway Electrification project, he worked as regular employee under Divisional Engineer (Adm) Telecom Bhopal. Electrification project was completed but workman was not transferred back to Divisional Engineer (Adm). On such ground, Ist party is praying for appointment as regular employee.

4. 2nd party filed Written Statement opposing claim of Ist party workman. 2nd party submits that workman was never employed by Railway Electrification Project. Infact he was engaged as casual labour by the management. He submitted that Railway Electrification Project was short term project which was given to the department of Telecom by department of Railway. Under said project, work assigned for erection and dismantling of lines and wires. The workman was aware of the fact that from the beginning of his engagement that the project was temporary and for a short period. 2nd party denies that workman continuously worked for 240 days in any calendar year. That workman has failed to submit verified copy of ACG-17 of muster roll. Therefore his claim that he worked more than 240 days is not acceptable. 2nd party further submits that workman was engaged on daily wages subject to availability of work in RE Project. There was no project for transfer of matter to the department of Telecom. Workman never worked under Administration of DE(Adm.) Bhopal. On such ground, 2nd party submits that workman is not entitled to any relief claimed by him.

5. Ist party filed rejoinder to the Written Statement filed by 2nd party reiterating his contentions in statement of claim. That initially he was appointed as labor from 24-5-87. He was continued in employment till 31-3-90. That Railway Electrification Project was not for short term. Workman reiterates that he worked more than 240 days during a

calendar year. He also refer to document submitted along with statement of claim. It is alleged that respondent has committed act of perjury.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of General Manager Telecom/ Assistant Engineer (RE), Bhopal in terminating the services of Shri Shivram Singh S/o Shri Tulsiram Singh w.e.f. April 1990 is justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

7. The term of reference pertains to legality of the termination of services of workman. Ist party workman field affidavit of his evidence supporting his contentions in statement of claim. That he was engaged as labor on 24-5-87 till 31-3-90. His services are terminated from -4-90. He had completed more than 240 days service. he was not issued any chargesheet, no DE was conducted against him before terminating his services. His work was excellent. He was not paid retrenchment compensation. His services are terminated violating provisions of ID Act. From evidence of Ist party, documents Exhibit W-1 to 3 are admitted in evidence. Ist party in his cross says post on which he was working was not advertised. His name was not sponsored through Employment Exchange,. He was directly engaged. He had not received appointment letter. He was engaged in Railway Electrification Project. Attendance was recorded in Service Card Exhibit W-1 by Attendance clerk. He had received wages for the working days shown in Exhibit W-1. Workman denied that he had not completed 240 days working during any of the year. The service card Exhibit W-1 working days of Ist party are shown till March 90. In said document, working days of workman till March 1989 are 200. Exhibit W-2 shows that as directed by Telecom Bhopal, following labours whose details are given below may be absorbed in place of junior most labours engaged. Name of workman is appearing at Sl.No.4. his working days are shown 745 days. He was directed to be absorbed on establishment of AE, Itarsi. In cross examination of workman, nothing is asked to Ist party workman about the working days shown 745 days in Exhibit W-2. Therefore I find no reason to disbelieve that the Ist party worked total 745 days. If his period of working from 24-5-87 to 31-3-90 is considered, said period comes 2 years and less than 10 months. Even if his working days 745 are divided by 3, working days of workman comes more than 240 days during each of the calendar years.

8. Present reference is received as per order dated 29-5-01. 2nd party had not appeared in the reference proceeding. Application for setting aside exparte order was filed on 3-7-09. As said application was not objected, exparte order was set-aside and Written Statement of management was taken on record.

9. Management filed affidavit of witness Syed Mehmood supporting contentions of 2nd party in Written Statement that workman was engaged in RE Project purely on daily wages subject to availability of work. Railway Electrification Project was short term period for limited period. Workman had not completed 240 days continuous service. witness of management in his cross examination says the affidavit filed by Shri J.K.Mishra earlier witness of management and affidavit of evidence filed by him are identical, of the work. The record of the labours engaged for the work was maintained. Witness of management was unable to tell when workman was dis-engaged. The witness of management has not said anything about letter Exhibit W-2. As per Letter Exhibit W-2, 7 employees including workman were directed to be absorbed in place of junior most labors engaged at the relevant time. Why workman was not absorbed in service as per exhibit W-2 is absolutely not explained by the management. As stated above, Ist party had completed more than 240 days continuous service during each of the calendar year, his services are terminated without notice, he was not paid retrenchment compensation, termination of his service is in violation of Section 25-F of ID Act.

10. Learned counsel for Ist party submitted written notes of argument. Learned counsel relies on ratio held in case between R.M.Yellati versus the Asstt. Executive Engineer and other judgments on the point of adverse inference to be drawn for failure of management to produce the documents. Perusal of record shows Ist party workman had not submitted application for production of document therefore ratio relied by learned counsel for workman cannot be applied. Ratio held in the case is relied by ist party workman cannot be applied. However as per Exhibit W-2, working days of Ist party are shown 745 days, it comes more than 240days during each of the calendar year. Workman was not served with notice neither he was paid retrenchment compensation, termination of his service is illegal for violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Negative.

11. Point No.2- In view of my finding in Point No. termination of services of workman is illegal, question remains for consideration is whether workman is entitled for reinstatement with backwages. Again document Exhibit W-2 needs to be considered. When 6 other employees were absorbed as per Exhibit W-2, there is absolutely no reason about workman was not absorbed as per said document on establishment of AE, Itarsi. Instead of absorbing Ist party workman as per Exhibit W-2, his services were terminated. The action of the management of Ist party is discriminatory. Ist party also is entitled to parity along with other employees absorbed vide Exhibit W-2. Therefore Ist party workman deserves reinstatement in service. Ist party workman in his affidavit of evidence has stated that after termination of his service, he is unemployed. Said evidence remained unchallenged in his cross-examination. Evidence of management's witness is also silent about any gainful employment of Ist party workman after termination of his service.

12. Learned counsel for Ist party Shri Amit Dubey relies on ratio held in case between

Bhuvnesh Kumar Dwivedi versus Hindalco Industries Ltd. Reported in 2014 STPL(Web) 337 SC. Their Lordship held awarding compensation Rs. One Lakh instead of reinstatement with full backwages was upheld.

For reasons discussed above, workman deserves reinstatement with full backwages. Accordingly I record my finding in Point No.2.

13. In the result, award is passed as under:-

- (1) The action of the management of General Manager Telecom/ Assistant Engineer (RE), Bhopal in terminating the services of Shri Shivram Singh S/o Shri Tulsiram Singh w.e.f. April 1990 is not legal.
- (2) 2nd party is directed to reinstate workman with continuity of service with full backwages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 10 मार्च, 2017

का.आ. 760.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार प्रधानाचार्य महाप्रबंधक, बीएसएनएल, कोट्टायम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 01/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 10th March, 2017

S.O. 760.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 01/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in Annexure, in the industrial dispute between the employers in relation to the Principal General Manager, BSNL, Kottayam and their workman, which was received by the Central Government on 30.11.2016.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri.K Sasidharan, B.Sc., LLB, Presiding Officer

(Friday the 28th day of October, 2016/06th Kartika, 1938)

ID 1/2016

Workman : Shri A. Ganesan,
S/o Arumughom,
Municipal Colony,
Fathimapuram PO,

Changanacherry Taluk,
Kottayam Pin 686102.

By Adv. Smt. Tessa P. George

Management : The Principal General Manager,
BSNL,
BSNL Office,
Head Post Office PO,
Kottayam – 686101

By Adv. Shri. Saji Varghese

This is an application filed by the workman under Section 2A(2) of the Industrial Disputes Act, 1947.

2. The averments in the application in brief are as follows:-

The workman was employed as a casual labourer - as a scavenger (contingent) in Telephone Exchange, E10B Exchange, Changanacherry from 1999 December to 06.01.2011. He had done the scavenging, cleaning and gardening work under the management regularly from 9:00 am to 5:00 pm. The management paid @ `120/- per day to the workman and his monthly income was `3,720/-. He has performed his duty sincerely, honestly and to the satisfaction of the officials under the management. Every year he worked more than 300 days under the management.

3. On 06.01.2011 the Sub-Divisional Engineer – Shri Baby Vijayan, informed the workman that his services are no longer required for the management. The employer denied employment to the workman without any reason w.e.f.06.01.2011. The management has not issued any show cause notice or charge sheet to the workman. No enquiry was conducted preceding the denial of employment of the workman.

4. The workman submitted representation before the General Manager, BSNL, Divisional Engineer(Vigilance), the District Collector, Kottayam and before the Labour Commissioner. The Legal Services Authority, Changanacherry directed the workman to file proceedings against the employer. On the basis of the complaint filed before the Assistant Labour Commissioner, Thiruvananthapuram, notice was issued to the employer. The employer refused to reinstate the workman. Therefore the workman has requested to pass an award directing the management to reinstate him in service with all benefits including the arrears of wages due to him.

6. The management filed written statement contending as follows:-

They have denied all the averments in the application except those that are specifically admitted. Even as per the admission of the workman, the management denied employment on 06.01.2011. The workman preferred this application under Section 2A(2) of the Industrial Disputes Act, 1947 on 01.12.2015, which is after a lapse of more than three years from the date of the alleged denial of employment. Therefore his claim is not sustainable in law as it is barred by limitation.

7. Without prejudice to the contentions raised above, the management has stated that the contention of the workman that he was employed as a casual labourer in E10 B Exchange, Changanacherry as scavenger from December, 1999 to 06.01.2011 is absolutely false and incorrect. The further averment that he was discharging his duties from 09:00 AM to 05:00 PM to the satisfaction of the management, is incorrect. After inviting competitive tenders, housekeeping work of Kottayam SSA was awarded to a contractor namely, Mahatma Gandhi Charitable Society. The period of their contract ended in June, 2010. The workman herein was employed under the said agency along with other workmen as part of the contract awarded to the contractor for the housekeeping work. The wages for the workman was paid by the contractor. The said agency is having the license under the Contract Labour (Regulation and Abolition Act) and separate registration as provided under the Employees' Provident Funds and Miscellaneous Provisions Act and Employees' State Insurance Act. The Provident Fund and ESI contribution of all the workmen engaged by the contractor are paid by the contractor. There was no employer-employee relationship between the BSNL and the workman. The contention that the workman was employed by the management for more than 300 days in a year is incorrect.

8. The allegation that Shri Baby Vijayan, Sub-Divisional Engineer working in the management denied employment to the workman on 06.01.2011, is absolutely false. After the completion of the contract period with Mahatma Gandhi Charitable Society in June, 2010, the workman was engaged on quotation basis by BSNL on payment @ `120/- per day till the first week of January, 2011. From November, 2010 the workman was not willing to do any other work other than the cleaning work for which he used to take hardly two hours per day. Therefore he was paid @ `75/- per day for those days he had done the cleaning work. After January, 2011 he did not turn up for the cleaning work for the reason that he secured better employment. BSNL never engaged the workman for more than 240 days in

any year. He is not entitled to get an order directing reinstatement or to recover the arrears and other benefits as claimed. The management has requested to dismiss the claim.

9. After filing written statement by the management the workman filed rejoinder reiterating the contentions in the application under Section 2A(2) of the Industrial Disputes Act.

10. The management in the meantime filed IA No.88/2016 requesting to consider the maintainability of the industrial dispute as a preliminary point. As requested by the counsel for the management IA No.88/2016 was heard and a separate order has been passed on 18.10.2016 holding that the claim of the workman is barred by limitation in view of Section 2A(3) of the Industrial Disputes Act.

11. In view of the disposal of IA No.88/2016 with the finding that the claim of the workman is barred by limitation, the workman herein is not entitled to get an order as claimed in the claim application.

12. In the result an award is passed holding that the workman is not entitled to any of the relief claimed as per this application for the reason that his application is barred by limitation under Section 2A(3) of the Industrial Disputes Act, 1947.

The Award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 28th day of October, 2016.

K. SASIDHARAN, Presiding Officer

APPENDIX - NIL

नई दिल्ली, 10 मार्च, 2017

का.आ. 761.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक (टी), बीएसएनएल, ढेंकनाल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 16/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.12.2016 को प्राप्त हुआ था।

[सं. एल-40012/36/2010-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 10th March, 2017

S.O. 761.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 16/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager (T), BSNL, Dhenkanal and their workman, which was received by the Central Government on 14.12.2016.

[No. L-40012/36/2010-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present :

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 16/2010

Date of Passing Award – 11th November, 2016

Between :

1. The General Manager (T), Telecom District,
Bharat Sanchar Nigam Limited, Dhenkanal.

2. Shri Bijay Kumar Sitha, Contractora,
At. Mahavir Bazar, Po./Distt. Dhenkanal – 759 001 ...1st Party-Managements.

(And)

Shri Santosh Kumar Rath,
At. Solabandha, Po. Champeswar, P.S. Ranpur,
Cuttack. – 754 037 ...2nd Party-Workman.

Appearances:

Shri L.K. Sahu, S.D.E., Legal	...	For the 1 st Party-Management No. 1.
Shri B.K. Sitha, Contractor	...	For the 1 st Party-Management No. 2.
Shri Santosh Kr. Rath	...	For himself the 2 nd Party-Workman.

A W A R D

The award is directed against a reference with following schedule:-

“Whether the termination of the workman Shri Santosh Kumar Rath, Data Entry Operator by the management of Bharat Sanchar Nigam Limited, Dhenkanal w.e.f. 01.02.2007 and followed by termination of his service by the contractor namely Shri Bijay Kumar Sitha w.e.f. 28.2.2008, is legal and justified? If not, what relief the workman is entitled to?”

made by the Government of India, Ministry of Labour & Employment in exercise of the powers conferred by clause (d) of Sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide letter No. L-40012/36/2010 – IR(DU), dated 17.09.2010.

2. The case of the 2nd party-workman as revealed from his statement of claim is that he was working in the capacity of Data Entry Operator in the office of the 1st Party-Management No. 1 from July, 1998 to 11.9.2009 on a different pay structure from time to time raising to an amount of Rs. 4100/- per month. He was working directly under the supervision of the Management No. 1 till he was retrenched with effect from 11.9.2009 without compliance of provisions of Section 25-F or 25-N of the Act. According to him he was receiving the monthly wage from the Management No. 1 till February, 2007. But, the amount and mode of payment of his wage was suddenly changed showing an arrangement of his service under the disposal of the contractor Shri Bijay Kumar Sitha, Management No. 2 having E.P.F. Code No. OR/12770/59 with effect from 01.02.2007 to 28.02.2008 and his wage was reduced to an amount of Rs. 2000/- only per month. It is his claim that his service was again placed directly under the disposal of the Management No. 1 from 01.03.2008 to 11.09.2009. As there was a change of service condition without a notice as required under Section 9-A of the Act by showing him as a contract labourer under Management No. 2 and his retrenchment with effect from 11.9.2009 was in violation of the provisions of Section 25-F, 25-H and 25-N of the Act, the 2nd party workman has claimed to declare his retrenchment as illegal and unjust and asked for his reinstatement with all back wages with effect from 11.9.2009 and payment of differential wages amounting to Rs. 61,600/- for the period from 1.2.2007 to 10.9.2009.

3. Both the Managements have refuted the allegations raised by the workman. The Management No. 1 has denied giving any appointment to the 2nd party-workman against any post as there was a ban of direct recruitment. The work of data entry was carried out through service providers/contractors. Salary/wage was never paid directly to such contract workers and such contract workers were receiving their wages from their employer/contractor. As there was no relationship of “employer and employee” the Management No. 1 is no way liable for any relief to the workman. The Management No. 2 has filed its written statement taking a stand that it was not known to him if the workman was giving service as a Data Entry Operator in the office of the Management No. 1 from July, 1998 on a monthly remuneration of Rs. 4,100/-. It is his pleadings that the office of the Management No. 1 issued a work order to him vide No. G-16/06-07/13, dated 27.1.2007 for supply of Data Entry Operator in Dhenkanal S.S.A. for the period covering from 1.2.2007 to 28.2.2008. On being requested by the 2nd party he employed him to work as a Data Entry Operator on daily wage of Rs. 80/- with effect from 01.02.2007 to 28.02.2008. After deduction of all statutory contributions the workman was paid remuneration on monthly basis and his contribution towards E.P.F. was deposited in the office of the Regional Provident Fund Commissioner, Bhubaneswar. It is his stand that the workman left the job on 28.2.2008 on his own volition and as such question does not arise for compliance of the provisions of the I.D. Act as claimed by the 2nd party-workman.

4. On the aforesaid pleadings of the parties the following issues have been settled for proper adjudication of the dispute.

ISSUES

1. Whether the termination of the workman Shri Santosh Kumar Rath, Data Entry Operator by the management of Bharat Sanchar Nigam Limited, Dhenkanal, w.e.f. 1.2.2007 and followed by termination of his service by the contractor namely Shri Bijay Kumar Sitha w.e.f. 28.2.2008, is legal and justified?
 2. If not, what relief the workman is entitled to?
5. The workman has examined himself and relied on documents like experience certificate/character certificate dated 26.2.2008 issued by the Chief Accounts Officer and his letter dated 13.8.2009 addressed to the Chairman-cum-Managing Director, BSNL in support of his claim, whereas three witnesses have been examined on behalf of the Management No. 1 and one witness on behalf of the Management No. 2 and the Xerox copies of documents like ban order dated 30.3.1985 issued by the office of the D.G. Posts and Telegraphs, work orders for supplying Data Entry Operator, register of wages, list of contractors, xerox copies of some contract agreements executed from time to time, payment bill for Data Entry Operator etc. have been filed by both the Managements to refute the allegations raised by the workman.

FINDINGS**ISSUE NO. 1 & 2**

6. The 2nd party-workman has claimed that he was working as a Computer Operator in the office of the S.D.O., Telephone, Dhenkanal from July, 1998 till 11.9.2009 when his service was terminated without compliance of the provisions of Section-25 of the Industrial Disputes Act, whereas it is the stand of both the Managements that he worked as a Data Entry Operator from 01.02.2007 to 28.02.2008 in the office of the S.D.O., Telephone Dhenkanal as a casual worker through labour contractor (Management No. 2). It is the pleading of the Management No. 1 that there was no relationship of “employer and employee” between it and the workman and as such he has no relief against the Management No. 1 under the I.D. Act. The Management No. 2 has pleaded that the workman had left the job on his own volition after 28.2.2008 and as such there was no scope of retrenchment or termination of his service by him. Admittedly, no appointment letter or termination letter or wage slip has been filed by the 2nd party-workman except his oral assertion in support of his claim that he was working in the office of the Management No. 1 from July, 1998. The workman has produced an experience certificate allegedly issued by W.W.-1, Shri Ramesh Chandra Das (Ext.-1) and a copy of his representation made to the Chairman-cum-Managing Director, BSNL Corporate Office, New Delhi (Ext.-2) to establish his stand that he was working as a Computer Operator from July, 1998 in the office of the Management No. 1. The witnesses examined by the Management No. 1 including the person who is stated to have issued the Ext.-1 have categorically claimed in their evidence that Ext.-1 was issued merely as a character certificate. According to them the workman was not appointed by the Management No. 1 as there was a ban order for recruitment of new staffs by a circular dated 30.3.1985 (Ext.-A). It has been asserted by them that data entry work being a voluminous computer entries are being done through different labour contractors from time to time and the 2nd party-workman was working as data entry worker through such contractor from 1.2.2007 to 28.2.2008. The annexures filed along with the written statement of the Management No. 1 and oral testimony of its witnesses suggest that the work of data entry of Management No. 1 was given to different contractors from time to time and the Contractor-Management No. 2 being given such work had engaged the workman for the period from 1.2.2007 to 28.2.2008. The Management No. 2 also admits engagement of 2nd party-workman as data entry operator in the establishment of the Management No. 1, but for the period from 01.02.2007 to 28.02.2008. It has been revealed from the cross examination of Management witnesses that the 2nd party-workman was also working in the office of the Management No. 1 prior to 2007. If the oral evidence of the witnesses examined on behalf of the Management No. 1 is taken into consideration along with the elicitation from the Management No. 2 Witness that he has no idea about the engagement of the workman in the office of the Management No. 1 prior to 1.2.2007 and the contents of Ext.-1 it is emerging that Ext.-1 was issued for the purpose of character certificate to the workman. At the same time the same discloses that the 2nd party-workman was doing data entry work in the office of the Management No. 1 from July, 1998. Perusal of the annexures filed along with the written statement of the Managements and the oral testimony of the management witnesses further reveals that the work of data entries was carried out in the office of the Management No. 1 through persons being shown as provided by contractors and such contractors were changed from time to time. Though no credible document is produced by the 2nd party-workman to show that he was given appointment directly by the Management No. 1 prior to 1.2.2007 or after 28.2.2008 and he was receiving his salary/wage directly from the said Management during the above period, it is coming forth that he was continuing to work as a data entry operator continuously for the Management No. 1 from July, 1998 onwards till alleged denial of service to him being shown as working under different contractors. Thus, it can be safely held that the 2nd party-workman was doing the work of data entry in the office of the Management No. 1 from July, 1998 onwards till his alleged retrenchment either by the contractor-Management No. 2 or by the Management No. 1.
7. No specific pleading or evidence has been advanced by either of the Managements that the service/job of the 2nd party-workman was for a specific time or for specific project or till completion of certain entries of data. On the other

hand pleading and evidence has been advanced by the Management No. 2 that the workman remained absent from his duty after 28.2.2008 on his own volition and as such, the allegation of retrenchment is not genuine. Neither the Management No. 1 nor the Management No. 2 has claimed that the workman was informed or noticed to join his duty before treating him to have abandoned the job voluntarily. No evidence has also been led to suggest that the work of data entries in the office of the Management No. 1 is already completed and no such work is being carried out presently or there is no necessity of engagement of person to make such entries in its office. If the above facts and circumstances as emerging from the pleadings and evidence of the parties are taken into consideration, an irresistible conclusion can be drawn that the service of the 2nd party-workman was dispensed with after 11.9.2009 without assigning any reason and the plea that the workman remained absent voluntarily from his duty is not acceptable and believable.

8. Both the Managements have not pleaded or denied the assertion of the workman that he was working continuously for 240 days in a calendar year for the period from July, 1998 to 11.9.2009. Be that as it may the retrenchment or termination needs to be carried out complying the requirements as contemplated under section 25-F and 25-H of the I.D. Act. There is no pleading as well as evidence on behalf of the Managements to show that the workman was paid one month notice pay and compensation in lieu of his alleged retrenchment/termination. Therefore, the said retrenchment is undoubtedly illegal and unjustified in the eye of law.

9. Now coming to the point to what relief to which the 2nd party-workman is entitled to receive it is seen that the Management No. 1 has taken the stand there exists no “employer and employee” relationship between it and the workman and as such, the reference is not maintainable against them and they are not liable to indemnify the 2nd party-workman either in shape of reinstatement with back wages or compensation. The contractor-Management No. 2 has testified that the workman has not claimed any relief from him and the grievance of the applicant is against the Management No. 1 only. It is his further, evidence that he participated in the tender process for supply of data entry operator for the period from 1.2.2007 to 28.2.2007 and being allotted the work order for the said period only he paid the wages to the workman for the period from 1.2.2007 to 28.2.2008 and as such, he is not liable to the claim of the workman. In the case of Hussai Bhai, Calicut –versus- Alath Factory Thozhial reported 1978 AIR 1410 it has been observed by the Hon’ble Apex Court in the following manner **“that the presence of intermeditate contractors with whom alone the workers have immediate or direct relationship ex contractu is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the Management, not the immediate contractor. Myriad devices, half hidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry, the local conditions and the like, may be resort to when labour legislation casts welfare obligations on the real employer, based on Articles, 38, 39, 42, 43 and 43-A of the Constitution. The court must be astute to avoid mischief and achieve the purpose of the law and not be misled by the maya of legal appearances”**.

10. Keeping in view the above observations of the Hon’ble Apex Court if the evidence as analyzed and discussed in supra with respect to engagement of the workman for doing data entry work in the office of the Management No. 1 is taken into consideration it can be safely said that the contract and agreement between the parties, if any, including the agreement with the Management No. 2 and other contractors apparently a sham and camouflage since various contractors were changed to carry out the work of the data entry however, the workman continued to be the same. The Managements did not lead any evidence in compliance of Section 7 and 12 of Contract Labour (R&A) Act. Though, the workman is stated to have been paid wages through various contractors from time to time he is found to have been working directly under the supervision of the Management No. 1. Therefore, it can be concluded that the Management No. 1 is to be the real employer of the disputant workman and thus, liable to comply the award.

11. It emerges from the pleadings and evidence of the parties that the nature of work of the 2nd party-workman was a casual and temporary one on the daily wage basis. The Apex Court in the case of Asst. Engineer, Rajasthan Dev. Corp. And Anr. V. Gitam Singh reported in 2013 LLR 225 has held that when the termination of a workman is held illegal, it can be said without any fear of contradiction that the Supreme Court has not held as an absolute proposition that in all cases of wrongful dismissal, the dismissed employee is entitled to reinstatement in all situations. It has always been the view of the Court that there could be circumstance (s) in a case which may make it inexpedient to order reinstatement. Hence, the normal rule that the dismissed workman is entitled to reinstatement in cases of wrongful dismissal has been held to be not without exception. The principles as relevant for granting relief of reinstatement when termination of workman is held to be illegal. Before exercising his judicial discretion, the Labour Court has to keep in view all relevant factors, including the mode and manner of appointment, nature of employment, length of service, the ground on which the termination has been set aside and the delay in raising the industrial dispute. Now there is no such principle that for an illegal termination of service, the normal rule is reinstatement with back wages, and instead the Labour Court can award compensation. Thus, while granting a relief of reinstatement to a workman whose termination is held to be illegal i.e. violative of section 25-F of the Act the Labour Court has to keep in view all the relevant factors including, the mode and manner of appointment, nature of employment, length of service, the ground on which the termination has been set aside and the delay, if any in raising the industrial dispute. It is already discussed in supra that

no pleading or evidence has been advanced to suggest that no employment opportunity on daily wage basis is available in the office of the Management No. 1 for doing the work of data entry after termination of service of the disputant workman. The workman is held to have been working for more than ten years on daily wage basis for doing the work of data entry. The workman is found to have raised the dispute immediately before the labour machinery soon after his alleged termination. There is no evidence or claim on behalf of the Management that the disputant workman was in any gainful employment after his termination. Having regard to the above facts and circumstances as well as settled principles of the Hon'ble Apex Court as mentioned above I find it just and proper to direct the Management No. 1 to either reinstate the disputant workman without any back wages for the work of data entry operator or to pay compensation of Rs. 1,00,000/- in lieu of reinstatement in case of non-availability of such work in its establishment. In case of reinstatement the disputant workman is to be treated to have been continuing in the service for the purpose of service benefits, if any, to such temporary casual worker.

12. Reference is answered accordingly.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 10 मार्च, 2017

का.आ. 762.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स टेलीकॉम जिला मैनेजर, कटक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 83/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.01.2017 को प्राप्त हुआ था।

[सं. एल-42025/03/2017-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 10th March, 2017

S.O. 762.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 83/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Telecom District Manager, Cuttack and their workman, which was received by the Central Government on 03.01.2017.

[No. L-42025/03/2017-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present :

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 83/2016

Filed under section 2-A(2) of the I.D. Act

Date of Passing Order – 1st December, 2016

Between :

M/s. Telecom District Manager,
Cuttack

...1st Party-Management

(And)

Shri Babaji Sethi,
S/o. Bina Sethi,
At. Madhipur (Totapada),
Po./Ps. Pipili, Dist. Puri, Odisha

...2nd Party-Petitioner

ORDER

This case is registered on presentation of an application under section 2-A(2) by one Shri Babaji Sethi with a prayer for reinstatement in employment with back wages and other service benefits like his counterparts with effect from 1.11.1983. Perused the office note wherein objection has been raised for registration of the case on the ground of limitation the application having been preferred after lapse of three years from the date of alleged termination of service by the Management. On a close reading of the application it is seen that the applicant has filed the present application resorting to the provisions of Section 2-A(2) of the I.D. Act pleading inter alia, that he was working as a mazdoor in the establishment of the Management with effect from Sept., 1982 and he was not allowed to work on 1.10.1983 without compliance of notice pay and compensation as contemplated under section 25-F of the Act and as such a prayer has been made for his reinstatement in service with back wages and other service benefits. Section 2-A(2) provides that where an employer discharges, dismisses, retrenches or otherwise terminates the service of an individual workman, any dispute or difference between that workman and his employer connected with or arising out, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any Union is a party to the dispute and the application regarding such dispute can be filed directly before the Labour Court or Industrial Tribunal for adjudication of the dispute after expiry of 45 days from the date the workman has filed the application to the conciliation officer of the appropriate Government for conciliation of the dispute and on receipt of such application the Labour Court or the Industrial Tribunal shall have the powers and jurisdiction to adjudicate upon the dispute as it was a dispute referred to it by the appropriate government in accordance with the provisions of the I.D. Act and as per Section 2-A(3) such application shall be made to the Labour Court or Tribunal before the expiry of three years from the date of alleged discharge, dismissal, retrenchment or otherwise termination of service. Keeping in view the period of limitation as provided in Section 2-A(3) of the Act, the applicant-workman was required to raise the dispute before this Tribunal within three years of his alleged termination/refusal of employment. As per his own pleadings the termination/refusal of employment of the applicant was on 1.10.1983 whereas the application raising the dispute is filed today after a lapse of 33 years. The statute mandates that such dispute shall be raised within three years and as such the Tribunal has no jurisdiction to condone the delay in filing of the application. In that view of the matter the application raising the dispute is time barred and the same is not maintainable under 2-A(2) of the Act. Hence the case cannot be registered for adjudication of the dispute and accordingly the application is rejected.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 10 मार्च, 2017

का.आ. 763.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स निदेशक, सेंट्रल इंस्टिट्यूट ऑफ फ्रेशवॉटर एक्वाकल्चर, भुवनेश्वर के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 17/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/38/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 10th March, 2017

S.O. 763.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 17/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the Director, Central Institute of Freshwater Aquaculture, Bhubaneswar and their workman, which was received by the Central Government on 05.12.2016.

[No. L-42011/38/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR****Present :**

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 17/2015

L-42011/38/2015-IR (DU), dated 26.05.2015

Date of Passing Order – 9th November, 2016**Between :**

The Director,
Central Institute of Freshwater Aquaculture,
Po. Kausalyagang, Bhubaneswar,
(Orissa) – 751 002

...1st Party-Management.**(And)**

The General Secretary,
CIFA Shramik Sangh,
At./Po. Kausalyaganga, Bhubaneswar,
(Orissa) – 751 002

...2nd Party-Union.**Appearances:**None ...For the 1st Party-ManagementNone ...For the 2nd Party-Union.**ORDER**

Case taken up. Parties are absent. The 2nd Party-Union has not filed any statement of claim despite sending notices through ordinary as well as regd. post. In order to give a last opportunity to the 2nd party-Union notice was issued on 05.08.2016 fixing 21.09.2016 for appearance and for filing of statement of claim, but neither the 2nd party-Union caused appearance nor has filed any statement of claim. In order to give a last chance/opportunity to the 2nd party-Union the case was posted to 09.11.2016 for filing of statement of claim, but the 2nd party-Union did not respond and file the statement of claim. As such it seems that the 2nd party-Union is not interested in prosecuting its case. However the dispute cannot be adjudicated upon for want of pleadings on behalf of the parties. As such there is no other alternative except to return the reference to the Government for necessary action at its end.

2. Accordingly the reference is returned to the Government of India, Ministry of Labour unanswered for necessary action at its end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 10 मार्च, 2017

का.आ. 764.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, बीएसएनएल, ढेंकनाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 18/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.12.2016 को प्राप्त हुआ था।

[सं. एल-40012/121/2013-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 10th March, 2017

S.O. 764.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 18/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, BSNL, Dhenkanal and their workman, which was received by the Central Government on 08.12.2016.

[No. L-40012/121/2013-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR****Present :**

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 18/2014

L-40012/121/2013-IR (DU), dated 26.02.2014

Date of Passing Order – 9th November, 2016

Between :

The General Manager,
GMTD, BSNL, Dhenkanal

...1st Party-Management.

(And)

Shri Gadadhar Nayak & 2 other workmen,
Jubilee Town, Mrudangasahi, Dhenkanal

...2nd Party-Workmen.

Appearances:

None ...For the 1st Party-Management.

None ...For the 2nd Party-Workmen.

ORDER

None of the parties are found present on repeated calls. It is seen from the record that after filing of Statement of claim the 2nd party-Workmen failed to attend the proceeding despite repeated notice. The 1st Party-Management has already submitted its written statement. The reference is lingering only due to non-attendance of the 2nd party-Workmen. As the Workmen failed to attend the proceeding as well as adduced any evidence in addition to their claim there is no alternative than to pass a no-dispute award and accordingly a no-dispute award is passed in the case.

2. The reference is answered in the above terms.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 10 मार्च, 2017

का.आ. 765.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार परियोजना निदेशक, एनएचआई, भुवनेश्वर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 18/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.12.2016 को प्राप्त हुआ था।

[सं. एल-42011/40/2015-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 10th March, 2017

S.O. 765.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 18/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the Project Director, NHAI, Bhubaneswar and their workman, which was received by the Central Government on 05.12.2016.

[No. L-42011/40/2015-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR****Present :**

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 18/2015

L-42011/40/2015-IR (DU), dated 26.05.2015

Date of Passing Order – 10th November, 2016

Between :

1. The Project Director, NHAI,
1st Floor, Setu Nirman Bhawan, (OBCC),
Near Kalyan Mandap, Nayapalli, Unit-8,
Bhubaneswar (Orissa) – 752 012.
2. The Managing Director,
M/s. Zedking Security Services (P) Ltd.,
Plot No. E-124, H.B. Colony, Baramunda,
Bhubaneswar (Orissa) – 751 003

...1st Party-Managements.

(And)

The General Secretary,
All Orissa Security & Services Employees
Association, INTUC, At. Charigharia, Gopalsahi,
Po. Madav Nagar, Bhadrak – 756 181

...2nd Party-Union.

Appearances:

None ...For the 1st Party-Managements.
None ...For the 2nd Party-Union.

ORDER

Case taken up. Parties are absent. The 2nd Party-Union has not filed any statement of claim despite sending notices through ordinary as well as regd. post. In order to give a last opportunity to the 2nd party-Union notice was issued on 05.08.2016 fixing 21.09.2016 for appearance and for filing of statement of claim, but neither the 2nd party-Union caused appearance nor has filed any statement of claim. In order to give a last chance/opportunity to the 2nd party-Union the case was posted to 10.11.2016 for filing of statement of claim, but the 2nd party-Union did not respond and file the statement of claim. As such it seems that the 2nd party-Union is not interested in prosecuting its case. However the dispute cannot be adjudicated upon for want of pleadings on behalf of the parties. As such there is no other alternative except to return the reference to the Government for necessary action at its end.

2. Accordingly the reference is returned to the Government of India, Ministry of Labour unanswered for necessary action at its end.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 14 मार्च, 2017

का.आ. 766.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उप निदेशक, जवाहर नवोदय विद्यालय समिति, भोपाल एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 123/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.11.2016 को प्राप्त हुआ था।

[सं. एल-42012/03/93-आईआर (डीयू)]

राजेंद्र जोशी, उप निदेशक

New Delhi, the 14th March, 2017

S.O. 766.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 123/95) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in Annexure, in the industrial dispute between the employers in relation to the

Dy. Director, Jawahar Navodaya Vidyalaya Samiti, Bhopal and their workman, which was received by the Central Government on 02.11.2016.

[No. L-42012/03/93-IR (DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/123/95

Shri Ved Prakash,
S/o Shri Kanhaiyalalji Sharma,
At & PO Rampura,
Distt. Mandsour (MP)

...Workman

Versus

The Dy. Director,
Jawahar Navodaya Vidyalaya Samiti,
E-3/3, Arera Colony,
Bhopal

...Management

AWARD

Passed on this 3rd day of October 2016

1. As per letter dated 30-6-95 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/03/93-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Jawahar Navodayala Samiti, Rampur , Distt. Mandsour in terminating the services of Shri Ved Prakash is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/3. Case of Ist party workman is that he was working as peon with 2nd party from 22-7-88 to 30-4-91. He was receiving pay Rs.455 per month during the period 5-10-91 to 30-7-92, orally he was directed to work as peon. One post of peon was vacant. There was need of peon. His services were illegally terminated on 30-10-91 without issuing chargesheet or issuing notice. He was not paid retrenchment compensation. Oral termination of his service is illegal though he had worked more than 240 days. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement opposing claim of workman at Page 7/1 to 7/2. 2nd party submits that it is not covered by provisions of ID Act. 2nd party remains open 9 months in an year. It is engaged in free education, it is not engaged in manufacturing or activities earning profits. Therefore the reference is without jurisdiction 2nd party further submits that for each academic year, staff is sanctioned by Regional Office. There was no sanctioned post of peon for the year 1992-93, 1993-94. The Principal of the school engaged persons on contingency basis for particular period. The workman was engaged on contingency basis for specific period of 89 days. Understanding was given to the workman, his services could not be terminated without notice. There was no question of approval of terminating his services as he was engaged as contingent employee. It is further contented that workman had not completed 240 days continuous service, post was not sanctioned. Provisions of ID Act are not applicable.

4. Workman submitted rejoinder at Page 8/1 to 8/2 reiterating his contentions in statement of claim.

5. The award was passed by my predecessor on 8-3-99. The award was set aside by Hon'ble High Court in Writ Petition No. 1799 / 2005 and matter has been remanded.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Jawahar Navodayala Samiti, Rampur , Distt. Mandsour in terminating the services of Shri Ved Prakash is legal and justified?	In Negative
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(ii) If not, what relief the workman is entitled to?"	As per final order.
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REASONS

7. Point No.1- The term of reference pertains to legality of termination of services of Ist party. Ist party workman filed affidavit of his evidence supporting his claim. In his affidavit, Ist party workman have stated that he was working as peon in 2nd party from 22-7-88 to 30-4-91 on pay Rs.455 per month. He worked during the period 5-10-91 to 3-6-97. As per oral directions, his services were terminated without notice, he was not paid retrenchment compensation, his services were orally terminated. That he worked more than 240 days. From evidence of workman, documents Exhibit W-1 to W-7 are admitted in evidence. In his cross, workman says he passed 8th standard, he was appointed on temporary basis. He was paid wages at collector rate. He was doing work of peon. He denies that he not work for more than 240 days during any of the year. The documents Exhibit W-1 is appointment letter dated 20-7-88 for 89 days, W-3 is appointment letter dated 1-7-90 for 179 days. Exhibit W-4 is appointment letter dated 9-3-90 untill further orders, he wages were to be paid at collector rate. Exhibit W-5 is appointment letter dated 16-1-90 till 28-2-90. Exhibit W-6 is appointment letter dated 24-11-89 till 16-12-89. Exhibit W-7 is certificate regarding working days of workman from 22-7-88 to 5-12-98. From those documents, evidence of workman is corroborated that he worked for more than 240 days preceding termination of service without paying compensation, therefore termination is in violation of Section 25-F of ID Act. Therefore I record my finding in Point No.1 in Negative.

8. Point No.2- In view of my finding in Point No.1, termination of services of workman is illegal, question remains for consideration is whether Ist party workman is entitled for reinstatement with backwages. Learned counsel for 2nd party Shri Praveen Namdeo submitted written arguments submitting that the school of 2nd party is not governed by provisions of ID Act. Relief claimed by workman cannot be allowed. Copy of notification dated 30-12-98 is submitted alongwith notes of argument. Ist party was working as peon is certainly covered as workman under Section 2(s) of ID Act. The jurisdiction of labour court under Section 10 could not be taken away by such notification considering termination of Ist party workman is illegal, workman was appointed on temporary basis vide different orders, he completed more than 240 days service during each of the year. Termination of his service without issuing notice, retrenchment compensation, relief of reinstatement would not be appropriate. However for violation of Section 25-F, compensation Rs. 50,000 would be appropriate in the matter. Accordingly I record my finding in Point No.2.

9. In the result, award is passed as under:-

- (1) The action of the management of Jawahar Navodayala Samiti, Rampur, Distt. Mandsour in terminating the services of Shri Ved Prakash is illegal.
- (2) 2nd party is directed to pay compensation Rs.50,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 15 मार्च, 2017

का.आ. 767.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 12/1992 तारीख 2.1.2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/159/1991-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 15th March, 2017

S.O. 767.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 12 of 1992 dt. 2.1.2017) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 15.03.2017.

[No. L-20012/159/1991-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 12/1992

Employer in relation to the management of Kenduadih Colliery of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : Shri D.K. Verma, Advocate

For the workman : Shri Lallan Debey, Rep.

Industry : Coal

Dated : 02/01/2017

AWARD

By order no . L- 20012 /159/1991 /IR (C-I) dated Nil, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub – section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether Shri Ramadhar and 65 others contractor workers are workmen of Kenduadih Colliery of M/S Bharat Coking Coal Ltd, and whether the demand that these persons be regularized in the services of the said management is justified ? If so, to what relief are these persons entitled?”

Annexure**List of workmen**

Sl.No.	Name	Father's Name	Vill	P.O	P.S	Distt.
1.	Sri Ramadhar	x	Kenduadih Colliery	Kusunda	x	Dhanbad
2.	Sri Ram Autar Ram	Sri Bitul Ram	Kendi nagar	Kanha Chatti	Chatra	Hazaribagh
3.	Sri Ram Charn Singh Yadav	Sri Har Nandan Singh Yadav	Bahdura	Samanpur	Nandgunj	Gajipur
4.	Sri Kanhaiya Pd. Singh	Sri Bhagwan Singh	Chanwath	Kaisath	X	Bhojpur
5.	Sri Ajoy Shankar Bahadur	Sri Tara Shankar Bahadur	Nutanddih	Jagjiwan Nagar	X	Dhanbad
6.	Sri Radhey Shyam Paswan	Sri Somar Paswan	Raundi	Karki	Ariyari	Munger
7.	Sri Bilash Rajbhar	Sri Nanho Rajbhar	Putkee Loyabad Centre	Loyabad	Putkee	Dhanbad
8.	Sri Udai Bhan Yadav	Sri Ram Karan Yadav	Ajorwa	Dumduma	Handi	Allahabad
9.	Sri Arbind Kr. Upadhya	Sri Ram Najar Upadhya	Osanow	Osanow	Tarka	Rohtas

10.	Sri Sanjay Kr. Singh	Sri Balkrishna Prasad	x	Bhuli Nagar Q.N. B/22	X	Dhanbad
11.	Sri Raj Kumar Sinha	Sri R.K.Prasad	X	Jagjiwan Nagar	X	Dhanbad
12.	Sri Dipak Chandra Paul	Lt Mahatab Ch. Paul	Kenduadih Basti	Kusunda	X	Dhanbad
13.	Sri Upendra Yadav	Sri Ram Das Yadav	KauaKhaph	Bhadwa	Rafigunj	Aurangabad
14.	Sri Subodh Paswan	Sri Kashev Paswan	Noni	Noni	Chandradih	Munger
15.	Sri Bechu Rajbhar	Sri Tilak Rajbhar	Putkee Loyabad Centre	Putkee	Loyabad	Dhanbad
16.	Sri Ashok Kr. Yadav	Sri Malapati Yadav	Bujuruk	Saidabad	X	Allahabad
17.	Sri Gobind Yadav	Sri Prayag Yadav	Kenduadih colliery	Kusunda	X	Dhanbad
18.	Sri Bijay Kumar verma	Sri Tarni Pd. Verma	Matkuria	Dhanbad	Dhanbad	Dhanbad
19.	Sri Surendra Paswan	Sri Manrup Paswan	Tejpur	Tilkai	X	Jahanabad
20.	Sri Balmiki Singh	Sri Bhola Singh	S. Balihari Colliery	Kusunda	x	Dhanbad
21.	Sri Karu Yadav	Sri Gopal Yadav	Uprwa	Uprawa	Bihar Sarif	Nalanda
22.	Sri Balmiki Paswan	x	Kenduadih colliery	Kusunda	Kenduadih	Dhanbad
23.	Sri Ram Keshwar Mistry	Sri Brahamdeo Mistry	Banke Bazar	Banke Bazar	Banke Bazar	Gaya
24.	Sri Surendra Mistry	Lt. Parmeshwar Mistry	Turkadih	Lesligunj	Lesligunj	Palamu
25.	Sri Nandlal sharma	Sri Mahadeo Mistry	Ghurwa	Poldih Jagishpur	Husenabad	Palamu
26.	sri mahadeo Lal	Lt. Barati Lal	Chute	Chute	Gomia	Giridih
27.	Sri Sanjay Kumar Sinha	Sri Chandrika Lal	New Area Pipar Panti	Kotwali	Gaya (R.S)	Gaya
28.	Sri Rajendra Yadav	Sri Ram Baldeo Yadav	Pipari	Prithabipur	Handia	Allahabad
29.	Sri chhotelal Passi	Sri Sukhu Passi	Aura	Baraut	Handia	Allahabad
30.	Sri Nand Lal Yadav	Sri Basdeo Yadav	Kubi	Urij via Bichhi	Gopigunj	Banaras
31.	Sri Balgovind Thakur	Lt. Jagarnath Thakur	Basupur	Handia	Handia	Allahabad
32.	Sri Ram Bilas Pasi	Sri Faudar Pasi	Balihari Colliery	Kusunda	X	Dhanbad

33.	Sri Mahendra Ram	Lt. Sarjug Ram	Bardan khar	Salanja	Atalsi	Munger
34.	Sri Sumiran Yadav	Sri Nath Yadav	Muflisipur Nawada	Muflisipur		Jonpur (UP)
35.	Sri Satrugshan Pd. Bhuia	Kamdeo Bhuia	Bania	Nagmatia	Madanpur	Aurangabad
36.	Sri Mahendra Pratap	Sri Ram Ugrah Rai	Naharchak	Jahanagunj	Sevata	Azamgarh
37.	Sri Sudhir Kr.	x	Kendua Pull	Kusunda	X	Dhanbad
38.	Sri Rajendra Pd. Swarnkar	Budhanb Swarnkar	Bishungarh	Bishungarh	Bishungarh	Hazaribagh
39.	Sri Jamir Alam	Sri Ismail Mian	Kenduadih colliery	Kusunda	X	Dhanbad
40.	Sri Jai Prakash Mistry	Sri Arjun Mistry	Mahudi	Brindaban	X	Hazaribagh
41.	Sri Dhaneshwar Yadav	Sri Sukh Ram Yadav	Balihari Colliery (K.B.Sec)	Kusunda	Putkee	Dhanbad
42.	Sri Raj Keshwar Singh	Lt. Randeo Singh	Behera	Poldih Jagishpur	Husenabad	Palamu
43.	Sri Arbind Prasad	Lt. Ram Sewak Prasad	Uchauli	Rengania	X	Aurangabad
44.	Sri Satendra Singh	Sri Dwarka Singh	Bherhia	Kenbehari	X	Aurangabad
45.	Sri Arbind Kr. Sinha	Sri Kedar Sinha	Benia	Erki Via Deo	X	Aurangabad
46.	Sri Dilip Kr. Singha	X	Kendua pull	Kusunda	X	Dhanbad
47.	Sri Ajit Kr. Verma	Sri Bipin Bihari verma	Gandhi path Lane	Danapur cant.	Danapur cant.	Patna
48.	Sri Prem Kr. Sinha	Sri R.K.Prasad	Jagjiwan Nagar	X	X	Dhanbad
49.	Sri Awadhesh Prasad	X	Kenduadih colliery	Kusunda	X	Dhanbad
50.	Sri Binod Kr. Mishra	Sri Ramyad Mishra	Saraiya	Malhara	Deo	Aurangabad
51.	Sri Pradip Kr. Ambasta	Lt. Raghubar Prasad	Darwan via Goh	Darwan via Goh	x	Aurangabad
52.	Sri Jai Prakash	Sri Chakradhar Lal	Kenduadih Basti No.5	Kusunda	X	Dhanbad
53.	Sri Ram Sewak Ram	Lt. Lilo Ram	Ganga Ahar	Paudibara	Choparan	Hazaribagh
54.	Sri Sheo Kr. Yadav	Sri Pun Yadav	Lalpur Bara	Dangara	Mahanpur	Gaya
55.	Sri Ramchandra Yadav	Ram Prasad Yadav	Padumchak	Barachati	Barachati	Gaya
56.	Sri Anup Kr. Singh	Sri Basdeo Nandan Prasad	Red House Compound	West Church Road	x	Gaya

57.	Sri Muna Saw	Sri Ramchandra saw	Repura	Daudnagar	X	Aurangabad
58.	Sri Rameshwar Saw	Sri Mahadeo Saw	x	Papaur via Siwan	Pach rukhi	Siwan
59.	Sri Pashupati Saw	Sri Uma Shankar Saw	Barhaka Gano	Papaur via Siwan	Pach rukhi	Siwan
60.	Sri Krishadeo Yadav	Sri Banwari Yadav	Garhala	Basahi	Karchhana	Allahabad
61.	Sri Rabo Ram	Sri Munshi Ram	Aijhi	Katari	Korina	Munghyr
62.	Sri Bhusan Prasad	Lt. Kameshwar Prasad	Bhuli townwhip	X	X	Dhanbad
63.	Sri Pradip Kumar	Sri Girendra Prasad	Kalaynpur	Badoli	Pratappur	Hazaribagh
64.	Sheo Nandan Ram	Sri Balchand Ram	Kandi nagar	Kalhaiya	Chatra	Hazaribagh
65.	Shri Shambhu Singh	Sri Tribeni Singh	Sultanpur	Sultanpur	Mahadi Nagar	Samastipur
66.	Sri Lalan Singh	Sri Ghul Singh	Araila	Manu Dihari	Jagdishpur	Bhojpur

2. This case is received from the Ministry of Labour on 24.01.1992. After receipt of the reference both parties are noticed. The sponsoring Union / workman files written statement on 07.02.1992. And the management also files their written statement on 25.06.1992. Rejoinder and documents filed by the parties.

3. Nine witnesses examined on behalf of the workman and three witnesses also examined on behalf of the management. Documents of the management marked as M-1 to M-1/1 as well as document of workman is also marked as W-1 to W-4/1. But thereafter both sides were not interested in the case. From 2001 to 2014 neither the management nor the sponsoring union moved for hearing of the case. Even issuance of Regd.notice in 2014 on both sides none responded hence No Dispute award was passed on 13.01.2014.

4. The Sponsoring Union challenged the No Dispute Award before the Hon'ble High Court, Ranchi, Accordingly it was remand back for fresh adjudication.

5. The case of the workman is that Kenduadih Colliery was a large coking coal mine under private ownership prior to take over by Central Government w.e.f 17.10.1971 and its ownership, management and control were vested in M/S BCCL w.e.f. 01.05.1972. There was a large and well equipped workshop in the premises of Kenduadih Colliery from the time of the private ownership where more than two hundred persons were engaged in skilled category of mechanical job in various permanent nature of work.

6. The concerned sixty six workmen of the present dispute were engaged in a group whose main function were to manufacture new coal tubs complete on wheels, repair of partially damaged coal tubs, as well as mine machineries required for day- to – day operation, engineering items for installing heavy structures and machines inside the mines, preparing specified items of spares required for underground and surface tube lines which are all essential items of daily requirement in mines operation.

7. It is also submitted by the workman that the concerned workmen continued in their respective duties till 1976 when all on a sudden the BCCL management stopped the workmen from duty without any notice or assigning any reason for such stoppage when the requirement of the services of the concerned workmen were very much necessary and the material they were preparing in the colliery workshop were also required by the management and utilized.

8. It is submitted by the concerned workmen that they were paid at consolidated piece rated basis by the officers of the colliery such as Agent, Manager and Engineer. In 1975 the BCCL management started regularizing the pay scale, grade and categories of workmen throughout the collieries under the ownership, and control of BCCL as well regularizing permanent workmen engaged through so-called contractors. But these concerned sixty six and other several other

workmen in the Kenduadih colliery workshop were shown engaged through different contractors. Thereafter the management with certain intention close the Kenduadih Colliery workshop and the concerned workmen ought to have provided duties in any other places within the Area which is now known as P.B.Area and the job performed by these sixty six workmen are in existence all over the collieries and workshop of BCCL. Then this context concerned workmen having lost hope of regularization by BCCL lodged a petition during April 1975 and Deputy Commissioner , Dhanbad was sent the matter to the Regional Labour Commissioner (C), Dhanbad. Thereafter the Union started Industrial Dispute on 23.06.1989.

9. On the other hand the case of the management is that in coal mines there was several jobs which are temporary and casual nature for which no permanent staff is required to be kept for which job the management appoints contractors and who engage their own men to do such jobs as and when given on work orders. The management has nothing to do regarding appointment of such workers by contractors who work on contractors pleasure and who can change such workers according to his will. Services of such workers get automatic terminated with the completion of the job given to the contractors.

10. It is also submitted by the management that the union in its application dated 23.06.1989 to the Assistant Labour Commissioner © asserted that Shri Ramadhar and 65 others have worked at Kenduadih workshop in the year 1975 as contractor's workers and their services were terminated consequent upon closure of the workshop in 1975. The management did not maintain record of employment of contractor's workers and at present it is quit difficult and impossible to explain the detailed in the absence of particulars of employment. Thus there was never any employer or employee relationship at any time between the management and the so-called job seeker workmen of the contractor.

11. It is also submitted by the management that the union has made a fantastic claim that 66 contractors workers were engaged on blacksmith job at Kenduadih workshop under different contractors. In this connection it is submitted that a blacksmith consists of one blacksmith, one hammerman and a helper total number being four and in a colliery for carrying or repairing and maintenance job three to four gangs are more than enough. It is absurd proposition that as many as 22 blacksmith gangs were engaged in a colliery workshop it is quite impossible.

12. It is further submitted that it has become very profitable proposition for union to collect unemployed persons seeking job and to include their names in the list of contractors workers, delisted casual wagon loaders and with the help of litigation to get them employed in the colliery. In this regard it is submitted that most of the concerned persons are job seekers and were never on roll of any contractors. The blacksmith contractors were issued work orders for carrying on blacksmith job as and when required.

13. It is also submitted by the management that no regular contractor were given work to any person by the management of Kenduadih colliery at any time and as such no contractor engaged workmen on regular basis. The contractors engaged purely on casual workmen as per their requirement and terminated their service as soon as the work was completed under work order.

14. It is submitted by the management that it is a concocted case raised after 15 years designed to induct a large number of fictitious persons after a lapse of 15 years in the employment of the management for reasons best known to the union and the demand of the union is unreasonable, baseless, unjustified and illegal.

15. This is a case of regularization of contractor workers under the BCCL management. In this case a good number of documents are marked. In this case also 9 nos of workmen and 3 nos of management witness examined.

16. It is the case of the workman that they were engaged by Private management through contractor. After taking over the private mines by BCCL in the year 1972, the BCCL engaged them till 1976 and thereafter did not allow them to work for which the present dispute.

17. In this case, three BCCL officer examined but the persons examined by the management have not stated that they knew of the workmen. The workman examined in this case say, they were engaged by the contractor, and were getting wage from management counter. They also say that they were not given any appointment letters.

18. The witnesses of the workman is examined in this case all are 40-42 years old at the time of evidence i.e 1994 it mean this time all are 60 to 62 years old now. The Cross examination of WW-2 is quoted below:-

XXXXX

We did not get appointment letter since we were working under contractor. We did not complain in writing either to ALC (C) or to other authority before the dispute was raised.

XXXXX

We had worked under the contractor- Mahadeo. It is a fact that Mahadeo used to do contract work according to the work order and we were employed in those contract works.

XXXXX

19. One witness of the workman say that I do not have any paper to show that I had worked in the workshop, and one says that we were appointed to do the work by the contractor Mahadeo Mistry , and I don't have any paper to show that I was stopped from working in 1976

20. It is admitted by all witnesses of the workman that we are contractor worker. On perusal of all document, it is noticed that there identity is not clear. Neither they file their I.D Card or age proof. Now this time all are about 62 years old. Moreover, now the claim is wholly stale, Admittedly the union alleged that the workmen were stopped from working from 1975. But the dispute was raised before ALC (C) in june 1989 i.e 14 years after , there is no satisfactory material to justify such a long delay, Even also from 2001-to 2014 they are also not moved even after regd. Notice. It is admitted that limitation Act is not applicable to I.D Act. But long delay will creat doubt and regarding genuines of the claim

21. In this regard learned Tribunal relied upon the judgment of Hon'ble Supreme Court in *Haryana State Cooperative Land Development Bank Vs Neelam reported in (2005) 5 SCC 91*, wherein their lordships while dealing with the issue of delay and latches observed that “ *The aim and object of the Industrial Disputes Act may be to impart social justice to the workmen but the same by itself would not mean that irrespective of his conduct a workman would automatically be entitled to relief.*”

22.This being the situation this Tribunal unable to help them . Though two chances were given to them i.e. at the time of trial and even after remand, they could not file any document to prove their case. This being the situation this Tribunal is unable to give any relief to them.

23. Considering the facts and circumstances of this case, I hold that Shri Ramadhar and 65 others contractor workers are not workmen of Kenduadih Colliery of M/S Bharat Coking Coal Ltd, and the demand of these persons to regularise in the services of the said management is not justified, Hence they are not entitled to get any relief.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 768.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स अमर क्लीयरिंग सर्विसस प्रा. लि. एवं मैसर्स ए.एम.सी. लोजिस्टिक इंडिया प्रा. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ सं. 17/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-31011/07/2009-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 768.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2010) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of M/s. Amar Clearing Services Pvt. Ltd. and M/s. AMC Logistic(1) Pvt. Ltd. and their workmen, received by the Central Government on 16.03.2017.

[No. L-31011/07/2009-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT : M. V. DESHPANDE, Presiding Officer

REFERENCE NO. CGIT-2/17 of 2010

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

- 1) AMAR CLEARING SERVICES PVT. LTD.
- 2) AMC LOGISTIC (I) PVT. LTD.

The Director
Amar Clearing Service Pvt. Ltd.
11-A, Ida Mansion, 1st floor
18, Vaju Kotak Marg, Ballard Estate
Fort, Mumbai 400 038.

The Director
M/s. AMC Logistics (I) Pvt. Ltd.
11-A, Ida Mansion, 1st floor
18, Vaju Kotak Marg, Ballard Estate
Fort, Mumbai 400 038.

AND

THEIR WORKMEN

The Secretary
Transport & Dock Workers Union
P. D'mello Bhavan
P. D'mello Road, Carnac Bunder
Mumbai-400 038.

APPEARANCES:

FOR THE EMPLOYERS (1) & (2) : Mr. Shridhar Poojary, Advocate.

FOR THE UNION : Mr. A. M. Koyande, Advocate.

Mumbai, the 3rd February 2017.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-31011/07/2009-IR (B-II), dated 01.02.2010 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether action of the management of M/s. Amar Clearing Services Pvt. Ltd. (CHA No.11/191) in terminating the services of Shri Mahadev L. Mistry, Shri Pratap Rane, Shri Pradeep Sodye & Shri Kinkar M. Dukre w.e.f. 17.07.2009 and the action of the management of M/s. AMC Logistic (India) Pvt. Ltd. (CHA No. 11/1967) in terminating the services of Shri Vijay S. More, Ms. Rajshree M. Rane and Shri Jitendra M. Surve w.e.f. 17.07.2009 is legal, just and Proper? What relief the workmen are entitled to ?”

2. After receipt of the reference, both parties were served with notice of the Reference. The second party union appeared through its legal representative and filed Statement of Claim at Ex-9. First party Management no.1 & 2 resisted the statement of claim of second party by filing their written statements at Ex-28 & Ex-15 respectively. Issues were framed by my Ld. Predecessors at Ex-18. Second party Union filed affidavit of Shri M.L. Mestry and Shri J.M. Surve and the matter was fixed for Cross examination.

3. Meanwhile today, i.e. on 03.02.2017 Second party Union filed purshis at Ex-39 stating that they have arrived at amicable settlement and prayed to dispose of the reference as withdrawn. Accordingly, the reference is disposed of. Hence the order:

ORDER

Reference stands dismissed as withdrawn.

Date: 03.02.2017

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 769.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ सं. 37/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12012/57/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 769.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Allahabad Bank and their workmen, received by the Central Government on 16.03.2017.

[No. L-12012/57/2012-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1,
KARKARDOOMA COURT COMPLEX, DELHI**

ID No.37/2013

Shri Dilip Kumar Kamat,
S/o Shri Mehant Lal Kamat,
R/o WZ-68, Dasgarha, Totapur,
Near Shiv Mandir, New Delhi – 110 012

...Workman

Versus

The Deputy General Manager,
Allahabad Bank,
Zonal Office,
17, Parliament Street,
New Delhi – 110 001

...Management

AWARD

A reference was received from Central Government under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act), by this Tribunal, vide letter No.L-12012/57/2012-IR(B-II) dated 06.02.2013, for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of Allahabad Bank in terminating services of the workman Shri Dilip Kumar Kamat, who worked more than 16 years and not considering him for appointment as peon cum driver as per tripartite settlement dated 17.06.2011 is fair and legal? What relief the workman is entitled to?’

2. It is the case of the workman that he was never served with any kind of charge sheet nor any opportunity of hearing was given to him by the management before his termination and this action of the management is grossly in violation of principles of natural justice as well as violations of section 25-F of the Act.

3. Claim was contested by the management, who filed reply by taking preliminary objections that there was no relationship of employer and employee between the management and the claimant. Claimant was not an employee of the management bank, as such, question of termination of the job does not arise. In para (b) of the preliminary objections, it is specifically averred that the claimant was engaged as a personal driver by executives of the bank and management gives allowance to the executives for engaging such personal drivers. Claimant was working as personal driver with Shri S.K. Widhani and then Shri K.S. Venkataraman, both Assistant General Managers of International Branch of the bank. Management has in fact signed a settlement dated 17.06.2011 whereby it was agreed that personal drivers of the Executives would be appointed as peon/driver in the subordinate category with the bank. There is also provision in the said settlement that drivers who have completed 5 years of service with an Executive of the bank as on 31.03.2010 could be considered for appointment for the post of peon/driver. Since the claimant was not engaged on the date of settlement dated 17.06.2011, as such could not be considered for the above post as per the settlement.

4. On merits,, bank has denied all the material averments made in the statement of claim. It is also denied that the claimant was called by the Shri SS Uppal, Security Officer of the bank and any pressure was put on the claimant to give anything in writing. Since the claimant was not an employee of the bank, question of his termination on 01.04.2011 does not arise.

5. Against this factual background, my learned predecessor, vide an order dated 03.09.2013, framed the following issues:

- (1) Whether claimant was personal driver engaged by Shri S.K. Widhani, Assistant General Manager of the bank? If yes, its effects.

(2) As in terms of reference.

6. Claimant, in order to prove his case against the management examined himself as WW1 and tendered in evidence his affidavit Ex.WW1/A alongwith documents Ex.WW1/1 to Ex.WW1/10. Management in order to rebut the case of the claimant examined Shri Pradeep Kumar Sharma, whose affidavit is Ex.MW1/A and tendered documents Ex.MW1/1 to Ex.MW1/4.

7. I have heard Shri Vinay Sabharwal, A/R for the claimant and Shri Rajat Arora, A/R for the management.

Findings on Issue No.1 and 2

8. Both these issues are being taken up together for the purpose of discussion as they are interconnected and can be conveniently disposed of. It was urged on behalf of the claimant by Shri Vinay Sabharwal, learned A/R for the claimant that there is ample evidence, both oral as well as documentary on record to suggest that the claimant was engaged as car driver of the management of the bank on 01.01.1994 and has been continuously working till the date of his termination on 01.04.2011. Learned A/R for the claimant took pains to take the court through documentary evidence particularly vouchers Ex.WW1/4 to Ex.WW1/10, which shows that that claimant was not personal car driver of the management bank and he was being paid miscellaneous and other charges by the management from time to time incurred on the maintenance of the said vehicle.

9. Consequently, it was contended that salary of the claimant was being reimbursed from the kitty of the bank and paid to the claimant. Therefore, plea of the management that personal driver of the Executive Officer is totally false and baseless and it is done with a view to deny permanent employment to the claimant. Lastly, it was urged that the management has failed to examine two important witnesses, Shri S.K. Widhani And Shri K.S. Venkataraman, with whom the claimant has worked as driver and this Tribunal, in the contention of the learned A/R for the claimant is entitled to draw adverse inference against the management. During the course of arguments, reliance was also placed by learned A/R for the claimant upon the case of G.B. Pant University of Agriculture & Technology, Pant Nagar, Nainital vs State of UP and other (2007 (7) SCC 109) and I would be adverting to the ratio of this authority during the course of my discussion in the subsequent paras.

10. Per contra, Shri Rajat Arora, A/R for the management refuted the contentions of the claimant by urging that there is no cogent or reliable evidence of relationship of master and servant, i.e. employer and employee between the claimant and the bank. Simply because at one point of time Shri S.K. Widhani and Shri K.S. Venkataraman had engaged the claimant as per driver would not mean that the claimant was in the service of the management bank. Learned A/R for the management took pains to take the court through the testimony of Shri Pradeep Kumar Sharma MW1 who was examined by the bank as well as settlement Ex.MW1/1 wherein authority has been given to the Executives of the bank to engage personal drivers for driving the bank's vehicles and the drivers who have completed minimum service of 5 years continuous service as on 31.03.2010 were also to be considered for regular appointment as peon/driver with the bank. Learned A/R for the management also invited the attention of the Tribunal of the judgement dated 08.07.2004 of Calcutta High Court wherein Bank Drivers Association has filed writ petition in the High Court when an advertisement was issued for recruitment of drivers in the newspaper. Plea of the drivers in the said case for their regular absorption in the bank was turned down by the Hon'ble High Court of Delhi. Thereafter, matter was taken in intra court appeal before the Division Bench of Hon'ble High Court of Calcutta and writ appeal was also dismissed vide judgement dated 25.04.2009. In the said case also there is reference to the settlement arrived at between the union of the bank as well as the management. It was finally held by the Hon'ble High Court of Calcutta that in view of the settlement arrived at between the management and the bank union that no relief can be granted to the drivers. There is also reference in the said judgement to the Uma Devi case wherein Constitution Bench of the Apex Court has dealt at length with the question of regularization of employees who have been recruited against sanctioned post in violation of the statutory norms. Even the SLP filed against the judgement of the Calcutta High Court in LPA was also objected by the Hon'ble Apex Court on 17.07.2009.

11. After considering the lengthy submission of the learned authorized representatives for the respective parties as well as perusal of record, first and foremost question in the present case is whether the claimant herein is a personal driver of Shri S.k. Widhani, Assistant General Manager or the claimant was in the employment of the management bank. During course of arguments, it was not disputed that the claimant was doing service in the bank irrespective of the fact that whether he was personally engaged by the executive of the bank or otherwise. It is further clear from perusal of affidavit Ex.WW1/A as well as applications Ex.WW1/1 that the claimant herein has applied for the post of personal driver of the bank for Delhi State and as he was fulfilling eligibility criteria and the said application is dated 13.05.1999. There is no documentary evidence on record to suggest that the claimant was in fact engaged by the management of the bank or otherwise in 1994. Perusal of vouchers Ex.WW1/3 to Ex.WW1/10 which are admittedly issued by the management of the bank and it clearly shows the various amounts have been paid by the bank to the claimant on account of miscellaneous types of wages. It was not disputed even by the learned A/R for the

management that whenever the vehicle required any kind of repair or expenses, the same were borne by the claimant initially while using the said vehicle for official purpose. Later on, management of the bank was reimbursing the said amounts from time to time. It is neither in doubt nor in dispute that Shri S.K.. Widani has not got done any personal work from the claimant while using the car belonging to the bank. In such a situation, when claimant was admittedly doing service of the bank, material question which arises for consideration is how engagement of the claimant herein can be said to be personal in nature for doing work of Shri S.K. Widani, Assistant General Manager, when the claimant was doing everything for the bank.

12. Perusal of the letter Ex.WW/2 issued by Shri M.N. Mehrotra, Chief Manager of the Bank shows that at the relevant time, regular driver of the bank was on leave as such, claimant was deputed to collect currency from the Currency Chest. The said letter is also signed by the claimant. If it is really so, then there is no merit in the contention of the management that the claimant was doing personal work nor can it be said that he was doing work exclusively for Shri Widani or Shri Venkararaman, Assistant General Managers of the bank as drivers. No inference can be drawn from this letter that he was engaged as personal driver by executives of the bank. Moreover, there is no documentary evidence regarding engagement of the claimant as personal driver of the executive. No doubt, as per statement of Shri Pradeep Kumar Sharma, MW1 there is mention of engaging of personal drivers but that would not be enough so as to hold that the claimant was not doing service for the benefit of the bank, which is purely a corporate body. If the engagement of the claimant was in terms of any settlement or office order, in that eventuality it was incumbent upon the management of the bank to have placed on record such documentary proof regarding engaging of the claimant as personal driver by executives at any given point of time. The Tribunal cannot ignore a vital fact that the claimant has worked under different Executives of the Bank.

13. I have gone through the judgement dated 08.07.2004 of Hon'ble High Court of Calcutta in WP No.17/1980 and in the said case, plea of the drivers association was rejected by the Hon'ble High Court of Calcutta for the simple reason that they have not mentioned about the directives issued by the Central Government on 23.06.1997 which superseded all the previous orders issued by the Government. As discussed above, an advertisement was published in the newspapers on 24.08.1998 to recruit drivers and it was against this background that the drivers have approached the Hon'ble High Court of Calcutta, restraining the Government from making any recruitment on the basis of the above advertisement. Intra court appeal filed by the association of drivers was also disposed by the Hon'ble High Court of Calcutta on 25.02.2009 and in the said order there is also specific mention that drivers association has not brought to the notice of the court the decision of the Government of India issued vide order dated 23.06.1997. Hon'ble High Court of Calcutta has dismissed the writ petition for the reason that management of the bank has right to make recruitment as per advertisement already issued, but controversy in the present case is entirely different. Claimant herein is not seeking any injunction against the recruitment to the post of drivers but he is simply challenging his termination, alleging the same to be in violation of provisions of the Act.

14. To my mind, in order to determine whether the claimant herein was really engaged as personal driver either by the bank or by any Manager at any point of time, it was incumbent upon the management to have cited and examined both or either of the two above Executives as witnesses.. Examination of such witness would have thrown ample light on the nature of engagement and the work which was to be taken from the claimant. Non-examination of both these material witnesses is really fatal to the cause of the management and the same has rather dealt a crippling blow to the defence of the management to show that the claimant was engaged as personal driver by the aforesaid Executives. The statement of Shri Pradeep Kumar Sharma, MW1 is also of not of much help so as to resolve the controversy in the present case. He is not aware of the material facts as the claimant herein was not engaged when he was posted in the said branch. Claimant has not worked at any point of time under supervision of this officer. He has straightway stated that there is no record available with the bank regarding appointment of the claimant as bank maintains records of regular employees only. It is really strange that payment is made from kitty of the bank then how no such record is being maintained by the bank. He also could not deny or confirm anything regarding letter Ex.WW1/2 dated 30.05.1998 issued by the Chief Manager of the bank to the Officer Incharge, Currency Chest. In the said letter, admittedly the claimant has been entrusted delicate employment of the task of driving official vehicle so as to collect currency from the currency chest. This also clearly shows that the claimant was not in fact doing any personal work of any of the two executives but doing everything for the management of the bank. This fact, as discussed above, is further fortified by the vouchers Ex.WW1/3 to Ex.WW1/10.

15. The claimant has relied upon the ratio of the case is GB Pant University case (supra) and I have clearly tried to grasp the ratio of the same. In that case also, employees were working in the cafeteria which was in the University for the last several years. They were working in the University which happens to be a residential university having 14 hostels. There were about 175 employees working in this cafeteria and they claimed for regularization of their services of regular employees of the University, which was denied by the University and ultimately matter reached before the Industrial Tribunal. Plea of the union that they were under supervision of the cafeteria of the University was not having any kind of control over them was rejected. The labour court directed to regularize services of the employees by

passing award in their favour. Writ petition filed against the said award was also dismissed, including intra court appeal. Matter was finally taken to the Hon'ble Apex Court wherein award passed by the Labour Court was upheld, and strong observations against the practice of engaging employees on casual or adhoc manner and observed as under:

'The continuing of the cafeteria employees to remain half fed and half clad is not consistent with the socialism conceived by the founding fathers of the Constitution. The deprivation of the weaker section has continued for long but time has now come to cry a halt and it is for the law courts to rise up the occasion and grant relief to a seeker of a just cause and just grievance. Economic justice is not mere legal jargon but in the new millennium, it is an obligation for all to confer this economic justice on a seeker. If society is to remain, social justice is the order and economic justice is the rule of the day. A narrow pedantic approach to statutory documents no longer survives. The principle of corporate jurisprudence is now being imbibed by industrial jurisprudence and there is a long catena of cases in regard thereto --- the law thus is not in a state of fluidity since the situation is more or less settled. As regards interpretation widest possible amplitude shall have to be offered in the matter of interpretation of statutory documents under industrial jurisprudence. The draconian concept is no longer available. Justice -- social and economic, ought to be made available with utmost expedition so that the socialistic pattern of the society as dreamt of by the founding fathers can thrive and have its foundation so that the future generation do not live in the dark and cry for social and economic justice.'

16. In the above case also, University was having control over the employees of the cafeteria and such employees were performing duties as per regulations and directions of the University. The position in the present case is also the same as management exercised control over the duties to be performed by the claimant.

17. Matter can be examined from another angle also. If it is assumed for the sake of argument that the claimant was engaged or was performing personal work of executives in terms of settlement relied by the management in that eventuality, it was incumbent upon the management to have come with specific evidence as well as proof regarding such engagement which is completely lacking in the present case. Rather evidence on the contrary in the present case has been adduced by the claimant, both oral as well as documentary, which completely goes to show that the claimant was doing work for the management of the bank and not for a particular executive or official of the bank. In such a situation, when admittedly no notice was served upon the claimant before his termination the same is held to be in violation of principles of natural justice as well as section 25-F of the Act.

18. Now, the residual question which requires consideration is whether the claim of the claimant for appointment to the post of peon/driver as per tripartite settlement Ex.WW1/M1 is fair and legal. To my mind, case of the claimant is liable to be considered in terms of the above settlement inasmuch as there is ample evidence on record to suggest that the claimant was doing service for more than 5 years of continuous service as on 31.03.2010. The claimant has specifically deposed while appearing as WW1 that he has been serving the management since 1994. Even if it is taken that he was engaged in the year 1999, which is apparent from his application dated 13.05.1999 Ex.WW1/1, in that eventuality also period of 5 years as per the above settlement would be covered and the case of the claimant herein for appointment as personal driver is liable to be considered in terms of the above settlement dated 17.06.2011. There is no evidence adduced by the management as to when the claimant was initially engaged by the Executives with the bank and payment regarding miscellaneous charges was being made from kitty of the bank, it was also incumbent upon the bank to have produced atleast some record so as to show that the claimant has not completed requisite service of five years as on 31.03.2010.

18. As a sequel to my discussion herein above, it is held that termination of services of the claimant, Shri Dilip Kumar Kamat, is against principles of natural justice and is in violation of provisions of Section 25-F of the Act. Thus, the same is held to be arbitrary and illegal. Similarly, action of the management in not considering him for the post of peon/driver as per tripartite settlement dated 17.06.2011 is also held to be not fair and legal. The workman is liable to be considered for the post of peon/driver in terms of the tripartite settlement. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : March 3, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 770.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 118/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12012/69/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 770.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 118/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 16.03.2017.

[No. L-12012/69/2013-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO-II, KARKARDOOMA COURT COMPLEX, DELHI-110032

ID.No. 118/2013

Sh. Arjun Singh,
S/o Kisor Lal,
R/o Village Badopur,
Post Dochana,
The Narnol, Distt. Mahendergarh,
Haryana

Versus

The Director,
Personnel,
Punjab National Bank,
7 Bhikaji Cama Place,
New Delhi

AWARD

The Central Government in the Ministry of Labour vide Letter No.L-12012/69/2013-IR(B-II) dated 9.10.2013 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of Punjab National Bank in terminating the services of Sh. Arjun Singh s/o Kisor Lal. Ex-Peon w.e.f. 14.11.2007 is justified or not? What relief will be given to the workman and from which date?”

On 23.10.2013 reference was received in this Tribunal. Which was register as I.D No. 118/2013 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

On 17.01.2014 workman filed claim statement before this Tribunal. Where-in he prayed as follows:-

“ It is therefore, most respectfully prayed that this Hon’ble Tribunal may graciously be pleased to pass an award in favour of workman and against management:

- a. Holding that action of the management of Punjab National Bank terminating the services of the workman from the post of Peon is unjustified, unreasonable and illegal and constitute an unfair labour practice.
- b. Directing the management to reinstate the workman in service with all consequential benefits and pay full back wages in accordance with the grade applicable him.”

After service of notice management filed written statement on 4.3.2014. Where-in management prayed as follows:-

“Management denied the allegations of workman and prayed for dismissal of claim statement.”

Against written statement workman filed rejoinder. Wherein he re-affirmed the contents of claim statement.

On 28.08.2014 following issues were framed:-

1. Whether the action of the management of Punjab National Bank in terminating the services of Sh. Arjun Singh S/o Sh. Kisori Lal, Ex-Peon w.e.f 14.11.2007 is justified or not? If so its effect?
2. To what relief the workman is entitled to and from which date?

And 27.10.2014 was fixed for workman evidence.

Workman in support of his case filed his affidavit on 27.10.2014. Copy of which supplied to Ld. A/R for the management.

Which was tendered by workman as WW1 and he was cross-examined & his cross-examination was concluded.

Management Bank in support of its case filed affidavit of MW1 Smt. Rajshri Talapatra D/o Sh. N. Sanyal. Who tendered his affidavit and his cross-examination is concluded on 30.05.2016 .

Thereafter management closed its remaining evidence then I fixed 26.07.2016 for oral /written arguments .

On 26.07.2016 management filed written arguments.

On 21.11.2016 workman filed written arguments in reply against written arguments of management.

In the light of contentions and counter contentions I perused the pleadings evidence and written arguments of parties on record including rulings cited on behalf of parties as well as order dated 18.12.2014 passed by the Hon'ble High Court of Delhi in the W.P.(C) No. 7461 of 2012 . Through Which co-accused Sh. Rajesh Dabas challenged the Award dated 31.07.2012 passed by this Tribunal. While dismissing aforesaid writ-petition his Lordship of Hon'ble Court observed in para 17 , 18, 20 & 21 of his order as follows:-

17. Since, Sh. Arjun was the main culprit, therefore, he was removed from the service, whereas the petitioner helped the above-named Arjun in the alleged theft, therefore the respondent establishment punished him with lesser punishment.

18. Though, in the judicial review this court need not to appreciate the evidence, however, it is established by the witnesses of the management and video cameras installed in the respondent Bank that the petitioner alongwith other Arjun Singh was found stealing the mobile phone which admittedly was got recovered by the petitioner. Had the petitioner not involved in the theft, this fact would have been disclosed by Arjun, another staff member. However it was disclosed by the petitioner himself. Therefore, in any stretch of imagination , it cannot be said that the petitioner was not involved in the theft.

20. However, if it is considered that the order dated 14.07.2011 is merged in the final order, even then , I do not find any discrepancy in order dated 14.07.2011 and 31.07.2012.

21. Accordingly, present petition is dismissed with no order as to costs.

On these grounds in addition other Ld. A/R for the management stressed that the enquiry conducted by the enquiry officer in respect of charge sheet dated 26.11.2007 is fair and proper.

It is relevant to mention here that Ld. A/R for the workman vehemently argued and tried his best to argue the case of workman but evidence on record reveals that role of workman in mobile theft was of main culprit and co-accused Rajesh Dabas whose role was lesser than workman Sh. Arjun Singh.

It is also relevant to mention here that departmental enquiry was conducted against Sh. Rajesh Dabas for his involvement in the theft of mobile and a punishment of compulsory retirement with superannuation benefits was imposed upon him vide order dated 5.6.2008 passed by the Disciplinary Authority . Which has been upheld by this Tribunal while deciding Award dated 31.07.2012. Against which Sh. Rajesh Dabas filed the W.P.(C) No. 7461/2012. Which was dismissed on 18.12.2014 on the basis of aforesaid observations.

During enquiry charge of Mobile theft against Sh. Arjun Singh was proved on the basis evidence led during the enquiry proceedings which include CCTV footage of the incident on 13.11.2007 and confession letter of claimant /workman Sh. Arjun Singh admitting the guilt.

The defence representative had perused the contents of the C.D. and then cross-examined the witnesses but nothing could be extracted out in their cross-examination which could be harmful to management.

Moreover the C.D. was not only evidence. There was enough relevant and circumstantial evidence with confession letter of Sh. Arjun Singh to prove his misconduct by way of committing theft of mobile of sh. K.G. Balakrishnan, who had come to meet the CMD on 13.11.2007 in his chamber at about 1:20 P.M.

Hence enquiry conducted by enquiry officer is just, fair and proper.

Disciplinary Authority vide its order dated 2.06.2008 reduced the penalty from dismissal without notice under para 6(a) of the Bipartite Settlement dated 10.04.2002 to removal from service with superannuation benefits under para 6(b) of the aforesaid Bipartite settlement.

Through its evidence management proved aforesaid facts.

Moreover there is no evidence of workman to prove that enquiry proceedings are not just, fair, proper and principles of natural justice were violated.

In these circumstances issue no. 1 framed by me on 28.08.2014 is liable to be decided against workman and in favour of management.

Which is accordingly decided.

As issue no. 2 is relating to relief to workman. Which is also liable to be decided against workman and in favour of management as issue No. 1 has already been decided in favour of management and against workman.

Which is accordingly decided.

Therefore reference is liable to be decided against workman and in favour of management. Which is accordingly decided and claim statement is dismissed.

Award is accordingly passed.

Dated:-21.2.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 771.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 283/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12012/147/1999-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 771.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 283/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 16.03.2017.

[No. L-12012/147/1999-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/283/99

Shri B.Prabhakar Rao,
S/o Shri Satyanarayana, House No. 12/243,
Sikola Bhata, Premnagar,
Durg (MP)

... Workman

Versus

Regional Manager,
Bank of Baroda,
Regional Office, LIC Building,
Jeevan Beema Marg,
Raipur

...Management

AWARD

Passed on this 10th day of February 2017

1. As per letter dated 16-8-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/147/99-IR(B-II). The dispute under reference relates to:

“Whether the order No. RO/RPR/11/VIZ/GF-12 of dated 17-12-97 of Regional Manager awarding punishment of dismissal without notice to Shri B.Prabhakar Rao., Ex-Head Cashier and treating period of suspension as period not spent on duty without increments are legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 6/1 to 6/48 very extensively. In his statement of claim, workman contends that he was selected by Banking Service Recruitment Board Bhopal in 1983. He was posted as clerk cum cashier in Dhamtari branch. Later he was transferred to Durg branch in 1985. On 4-9-87, he was selected and posted as head cashier at Rural bank, Distt. Durg. He was working as award staff. His services are governed by bipartite settlement applicable to employees of Nationalised Bank, he is covered as workman under Section 2(s) of ID Act. That 2nd party is nationalized bank. It is an industry under Section 2(j) of ID Act. Workman has also exhaustively narrated duties and responsibilities of staff and officers at Gurur branch. The duties of officers are to supervise each and every activities of staff worked under them to check day to day entries in all account books, registers used in cash department, ledger abstract and voucher registers etc. To check, verify and put initial sign on all debit and credit entries in each ledger account and pass book but before keeping the cash into cash chest jointly with the head cashier as joint and first custodian of the branch. To maintain proper records of all security forms, registers, vouchers, advices etc. To use discretionary powers in every respect carefully and cautiously. The duty of clerical staff at Gurur branch was manned by two clerical staff both carrying special allowances and were termed as headcashier “C” and Agricultural Assistant. The duty of head cashier was all routine duties and functions holding the bank’s cash keys and or other valuables in safe custody jointly with an officer and being accountable for them and being responsible for running of the cash department. The duty of subordinate staff i.e. Daftary and peons as per requirement of the branch involving simple binding of books and registers, press keeping filing independently letters and other papers in respective files etc. In para 6 of the statement of claim process about opening of State Bank Account is given to approach Branch Manager or accountant in the branch. Branch Manager obtains signature in the appropriate column in the account opening card and after that the manager first verifies the account number and the signature of the introducer from the specimen signature card of the said introducer. Process of receipt of cash from customers to deposit in their account, process of cash payment of any withdrawals or cheques etc. particulars are given process for writing daily cash book, tallying balance is narrated with the responsibility of the Manager, Head Cashier, Accountant. That services of Bank employees are covered by Bipartite Settlement entered time to time. In para 8 of the statement of claim, procedure relating to DE in the Bank has been narrated in context of 19.2(a), 19.12(e) of Bipartite settlement 1966. The guidelines of RBI narrated in para-9. Ist party workman has also pleaded about allotment of work and duties assigned to him were excessive. He was compelled to work excessively doing all job of cash receipts and payment works of the branch, counting, recounting, sorting, packaging bundling and accountability of daily cash of the branch, to supervise cash work done by cash peon like sealing and bundling the cash packets. To undertake cash remittance, job of credit and debit of the vouchers into respective ledgers, complete all clerical works regarding opening and closing of any account, to write daily supplementary, progressive cash books, to calculate interests on saving bank accounts, to tally monthly balance of ledgers, to do any work advised of required by the Branch Manager. That all the above routine works were required to be carried simultaneously one after another in cash cabin 4x10ft size. Receipt and payment registers, about 19-20 saving bank ledgers, 7-8 recurring ledgers, 3-4 fixed deposit ledgers and other work was discharged by him. In spite of his request, his grievances were not redressed by the Branch Manager. He requested for transfer from Gurur branch for family reasons. Mr. T.C.Tekam was posted in the branch,. He wanted to occupy post of workman and as such was annoyed with him. His adversaries attempted to cause harassment and they succeeded in the mission. 2nd party victimized him from 27-12-89.

3. Ist party workman narrated about incident on 27-12-89. Staff member Mahorey, Accountant Godbole, T.C.Tekam, Peon and Daftary were present. Branch Manager had left for outside duty and returned about 4 PM. He also refers to deposit of amount of Rs.13000. at the same time few persons came to open new account with amount of Rs.53050/- . He alleges that Mr. Godbole had come by side of his cabin window and tendered amount Rs.53050 that he was asked to accept the amount and take entries etc. due to rush of work, workman could not take entries of all the transactions. He claims to be innocent. He not committed any act intentionally. On 1-1-90 he applied for CL. Shri T.C.Tekam had closed cash on 31-12-89. Workman had handed over cash charge, cash cabin keys etc. to Tekam on 30-12-89 closing cash correctly. On 2-1-90, workman came to know that Shri Tekam had reported to Branch Manager with original voucher of account No. 825 was found in cash cabin. That without contacting account holder No. 825 and 1259 and ascertaining genuiness of vouchers, only on report of Branch Manager investigation was started by the

Regional Office. Fact finding Enquiry Report was submitted by Shri S.P.Rajamany, Branch Manager Dhamtari. W.r.t incident dated 27-12-89, Ist party workman contends that Shri S.P.Rajamany did not asked any question to Tekam, Godbole why account No.825 for Rs.13000 had not been scrolled. How the SI No. 29 was repeated to new account named Anand Kumar Sahu? How last voucher bearing Account No. 1259 accounted and recorded in cashier receipt and payment register. As there were two vouchers of Rs.13000 each and one is scrolled and another is not scrolled, so where is the amount on that day? Chargesheet dated 8-8-90 was issued after lapse of 4 months. Workman submitted reply to it on 22-10-90. Without considering his reply, Regional Manager initiated enquiry is illegal. With respect to enquiry on the chargesheet, Ist party workman submits chargesheet was issued with malafide intention to victimize him. Amount of Rs.13000 was credited in account No. 1259 & 825. He admitted his lapse vide letter dated 8-1-90. The credit entries were revised on 4-4-90. The matter was closed.

4. That holder of account 825 & 1259 not suffered any loss initiating enquiry against him is illegal. Ist party workman has reiterated that any customer had not lodged complaint. Enquiry Officer acted in bias. Several representations were not considered. Chargesheet was issued without documents of list of witnesses. 10 documents requested by him were not supplied. Enquiry was held in arbitrary manner. Enquiry was challenged in Writ Petition 246/94 for non-compliance of clause 19.2(e). Enquiry was stayed by Enquiry Officer at his will and enquiry continued for 7 years. Enquiry Officer did not asked about relevancy of documents produced by management. Enquiry is in violation of Para 19.1, 19.5, 19.11, 19.14 of bipartite settlement. Principles of natural justice was violated. The cross examination of management's witnesses was restricted. The complaint against Enquiry Officer were not considered. Enquiry Officer had demanded bribe of Rs.One Lakh before submitting his report. The request of Ist party for investigation by police or CBI were not considered. Enquiry conducted against him is illegal. The request of Union that to handover entire branch for investigation, the police of CBI was not considered. Workman submits act of management is malafide.

5. Ist party further submits Accountant Sarangpure posted in Gurur branch was residing near to house of account holder of A/C No.2981 w.r.t. withdrawal of Rs.1000/-. The signature card was in custody of the Branch Manager and passed the withdrawal. Intentionally he did not debit amount Rs.1000 in ledger of Account No. 2981. That on 8-2-93, account holder had lodged complaint against Sarangpure. The entire cash payment process dated 13-6-92 was suffering from omission on part of Sarangpure. In August 1992, balancing of ledger was done by workman, he noted difference of Rs.10900 and intimated to Branch Manager. In spite of locating the difference amount in ledger, Branch Manager mentioned foot note difference of Rs.1000 in Account No. 2981. Ist party workman has contented that the accounts, progressive books etc were tallied by Shri Koul. He claims to be innocent. He also submits that he is victimized by issuing chargesheet and conducting enquiry. He is not involved for withdrawal of Rs.2000 from Saving Bank Account 2734. Amount was withdrawn by Account Holder himself under duplicate pass book. Statement of claim is in the nature of argument that the allegation in 2nd chargesheet dated 15-11-93 pertaining to withdrawal of Rs.2000 and withdrawal from Account 2408 of M/S Gunder and company. Entry of IR for Rs.43000 was not taken by him. Account was not fraudulently opened. Shri O.P.Patel was financially sound. W.r.t. deposit entries dated 26-6-89, workman claims that he was deputed to other branch at Dhamtari. On that day cheque of Rs.43000 was received by Mr.Godbole. Shri Tekam and Godbole verified transfer rolls about credit of Rs.,43000 in Account No. 2408. Both credit and debit transfer of Rs.43000 were correctly reflected in transfer scrolls, cash book etc. that debit voucher of Rs.5000, withdrawal dated 18-9-89 was filled by account holder. It is checked by Mohre and passed for payment. Withdrawal of Rs.2000 on 7-2-90 was filled by temporary peon on direction of Branch Manager. It was duly signed by Account holder who received payment. Shri P.S.Godbole admitted having checked and initiated ledger account. Debit voucher Rs.10,000 withdrawal dated 15-3-90 was signed by Account holder himself. The entry was correctly taken in ledger account. The workman w.r.t. withdrawals dated 23-3-90, 7-5-90, 8-2-91 submits that management failed to submit relevant vouchers during Enquiry Proceedings. The Banks Internal Investigation officer shown those withdrawals were filled by S.Patel, Mohrey. The transaction were not fictitious or fraudulent. W.r.t. Rs.43000 management not produced complaint of Account holder or cited any letter.

6. Workman further submits that charge about opening fictitious Account 2408 influencing O.P.Patel introducer is false. Workman himself requested for enquiry by police or CBI. Account Holder had not denied withdrawal of amount. Account Holder not submitted any complaint against him. Account Holder was not examined as witness. Introducer did not deny introduction of Account holders et. it is reiterated that the related charge is not proved. Ist party further submits that attending IBTA reconciliation was mostly done by Branch Manager or accountant. Branch Manager received statement sometime in November 1990. He kept attending work for 10-12 days. Statement of claim is in the shape of argument contending that the 2nd party pertaining to chargesheet dated 25-11-93 is false, baseless. The allegations pertaining to missing of bank records are false. 2nd party chargesheet issued on 25-11-93 to coverup the fraudulent acts 3 incidents pertaining to Account No. 2408, 2734, 2981. That he was never in possession of keys of record room. The allegations about destruction of documents are false. He has not disobeyed lawful instructions. It is reiterated that enquiry was conducted in violation of principles of natural justice. Enquiry Officer acted with bias. He was not allowed to cross examine witness of the management. Chargesheet is issued to him is vague and defective.

That he was suspended without calling explanation. He was denied assistance of the Advocate. The findings of Enquiry Officer are illegal. The inconsistency in evidence was not considered. 2 chargesheet were illegally clubbed. The suspension was prolonged till 27-12-97. That final order of punishment was passed. His appeals were not properly considered. Ist party reiterates that punishment of dismissal imposed against him is illegal. He has not committed any fraudulent act. At the most the lapses may be considered as clerical errors. The punishment of dismissal imposed against him is illegal and workman prays for setting aside order of his dismissal. He further prays for his reinstatement with consequential benefits.

7. 2nd party filed Written statemen opposing claim of workman. 2nd party submits that chargesheet was issued to workman on 8-8-90 pertaining to act willful gross negligence act causing prejudice to the interest of the Bank, act unbecoming on part of Bank giving particulars of the act committed on 27-12-89 accepting Rs.13000 from Shri Murlu Garg holder of SB Account No. 825 and not taking entry in scroll. On 27-12-89, SB Account was opened in name of Arvind Kumar Shah depositing Rs.50 voucher No. 29. That cash receipt of Rs.13000 vide voucher No.40 favouring Harath ram holder of Account No. 1259 was disowned by Mr. Metam. The charges against workman pertain to fraudulent acts w.r.t. deposit of Rs.1000 in Account No. 2981 and act causing wrongful loss willfully causing damage to the Bank w.r.t. difference of Rs.1000, ledger No. 20 entry dated 16-11-92 of Rs. 2000 SB Account No. 2734 opening fictitious account 2734 in name of Kedar Sahu and withdrawn amount on various dates committing intentional act destroying bank record etc. 2nd party submits that Shri A.K.Digraskar was appointed Enquiry Officer, Goswami as Presenting Officer. Enquiry was conducted. Presenting Officer was transferred to other region therefore Shri S.Anthony was appointed as Enquiry Officer and G.Naraiya was appointed as Presenting Officer. At initial stage, workman himself contested case and lateron defence representative Shri S.L.Joshi participated in enquiry. Ist party workman had filed Writ Petition No. 246/94, 4069/93, 3964/94, MCC 55/94 directions issued by Hon'ble High Court were complied. Enquiry was conducted from 6-11-90 to 4-12-96. Enquiry was prolonged due to various Writ Petitions filed in the High Court. Enquiry Officer is not responsible for delay. Punishment of dismissal was imposed considering findings of Enquiry Officer that charges against workman are proved. Appeal preferred by workman was also rejected by Appellate Authority. It is reiterated that workman was given opportunity for his defence. Chargesheet issued to workman are illegal. Proved misconduct of workman is of serious nature committing fraud. Provisions of bipartite settlement were followed while conducting enquiry. The witnesses of management were cross examined extensively. Request of workman for engaging Advocate was rejected is legal. Workman was supplied copies of documents. The request of workman for enquiry by police or CBI could not be accepted. Management has conducted enquiry. Any investigation by CBI or police may end in prosecution and connection of workman. In Enquiry Proceeding initiated by management, punishment of different kind could be imposed. It is reiterated that from evidence of management's witness in enquiry, fraudulent acts of withdrawal of amount forging signatures and other acts alleged against workman including withdrawal of amount from Account No. 2408 are proved. Ist party workman had influenced Omprakash Patel for opening fictitious account in name of Shri Kedar Sahu. Punishment of dismissal is imposed for proved misconduct. Action of management is proper. The allegations about demand of Rs.One Lakh by Enquiry Officer have been made with intention to demoralize Enquiry Officer, Presenting Officer. On such ground, 2nd party prays for rejection of claim of Ist party.

8. Ist party filed rejoinder reiterating contentions in statement of claim.

9. As per order dated 14-7-2015, enquiry conducted against workman is found legal.

10. Considering pleadings on record and order on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the misconduct alleged against workman are proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

11. Point No.1- As per order dated 17-7-15, enquiry conducted against workman is found proper and legal. Chargesheet dated 8-8-90 issued to workman pertaining to on 27-12-89, he accepted cash of Rs.13000 from Murlibai Garg holder of Account No. 825 marked voucher No. 29 and initiated pass book by crediting Rs.13000. however he scrolls said voucher of Rs.13000 and not reflected in cash scroll. 2nd charge was pertaining to opening State Bank

Account in name of Arvind Kumar Sahu depositing Rs.50/-. The voucher No.29 in cash receipt scrolled. 3rd charge pertain to that workman last cash receipt on above scrolled by him voucher no. 40 was also for Rs.13000 favouring Harathram holder of Account No. 1259 which was disowned by Metam in writing on 4-1-90. 2nd charge issued to workman dated 25-11-93. The charges pertain to on 13-6-92 while performing duties as cashier at Gurur branch, workman accepted Rs.1000 against SB Account No. 2981 in name of Amar Yadav SI.22 with cash payment register without receiving any such withdrawal duly passed by passing officer. Amount was misappropriated causing peculiar loss to Bank and gain to workman. Rest of the charges pertain to Ist party defaulted Bank by Rs. 43000/-. Charge No.2 pertain to entry in cash payment of Rs.2000 at SI.No.16 S.B.Account No. 2734. Withdrawal was denied by Account holder. Charge No.4 pertain to IBTA reconciliation statement report received by Gurur branch workman made noting that all entries found correct as per IBTA statement ad vouchers. Mislead Bank by giving incorrect information. The details of the fraudulent transactions alleged on part of workman pertain to payment of Rs.1000 dated 13-6-92, payment of Rs.2000 dated 16-11-92 fraudulent transactions in respect of Rs.43000/- etc.

12. Record of enquiry pertaining to Ist charge is produced at Exhibit M-1 to M-17. The record of enquiry of 2nd chargesheet dated 25-11-93 is produced at Exhibit M-18 to M-40. Both the enquiries were conducted very elaborately and enquiries were completed in the year 1997. Workman had filed several Writ petitions in High Court on different points. After Enquiry Officer submitted his report holding workman guilty of the charges, the Disciplinary Authority imposed punishment of dismissal. Ist party workman in his statement has reiterated that he has not committed any fraudulent acts, he was overburdened, he was not transferred on his request to other branch. He had not destroyed the documents from the record room. W.r.t. enquiry pertaining to Ist chargesheet dated 18-8-90, evidence of management's witness Smt. Murribai Garg is recorded at Page 11/102 onwards. She has stated in enquiry that on 27-12-89, she had gone to the Bank for depositing amount in SB Account No. 825. She had deposited Rs.13000 with workman Shri Rao, the entry in the pass book was made for the amount. Statement of Mr. M.V.Mohrey was recorded in Enquiry Proceedings w.r.t. certain transactions in the Bank. Ist party workman Rao was working as Head cashier, Tekam was appointed as Agricultural Assistant. Shri Sudarshan Patel working as cash peon/ daftary. The detailed procedure about working is narrated by the witness. He had verified entry from cash book, supplementary register. Harathram had personally come to the Bank and inquired why Branch Manager called him. Personally he confirmed about the happenings. The detailed evidence w.r.t. transaction of Rs.13000 on 12-12-89 is narrated. Said witness was thoroughly cross examined.

13. Statement of Shri T.C.Tekam was recorded in the Enquiry Proceedings, witness was cross examined thoroughly w.r.t. transaction of Rs.13000/-. Statement of witness Pradeep Godbole was working as accountant. Said witness was cross examined. Witness was also re-examined on certain points. Workman submitted defence brief at Exhibit M-13.

14. Evidence of Shri V.M.Mohrey is recorded. Said witness was cross examined.

15. In enquiry w.r.t. 2nd chargesheet dated 25-11-93, statement of witnesses Amar Jadhav is recorded w.r.t. withdrawal from Account No. 2981 dated 13-6-92. He had verified original pass book. One day Mr. Rao workman had come to his home at Dhamtari whether he sent any letter to him. Again when he had gone for withdrawal of amount to the Bank, Mr. Rao had shown him letter and asked him whether it was sent by him. Witness denied to have sent the letter. Witness was cross examined. Documents are produced in Enquiry Proceedings statement of P.S.Godbole Accountant was recorded in the enquiry about staff working in the Bank. The evidence was w.r.t. pay slip dated 29-4-89 ME Ledger folio 2408 DME-5, IBT Statement Lead 82 dated 26-6-89 ME-21, withdrawal slip ME-22/23, opening register folio ME-25, discharge- ME-26, the witness was cross-examined. At page 4 of his statement, this witness says that it is a rural branch. Majority of the customers are uneducated persons who accept request of them for filling the account opening form, paying slip etc. the cards are kept in card cabinet. He was unable to reply whether any IR/BP was taken for SB Account holder in his tenure. In his further cross, management's witness Godbole says there is no practice to keep vouchers etc. in joint custody of Head cashier. He admits on 29-4-89 he was in Gurur branch. Statement and cross examination of Godbole is recorded very extensively w.r.t. the transaction of Rs.40,000, withdrawal of Rs.5000 and entries of cash receipt. Statement of management's witness Shri Koul Branch Manager is recorded w.r.t. the transactions in questions. Said witness was extensively cross examined. Though workman has made contentions in his statement of claim in the nature of argument though he filed affidavit of his evidence w.r.t. legality of enquiry, he remained absent for his cross examination. After legality of enquiry was decided, Ist party workman remained absent, he failed to adduce evidence on other issues. The case was fixed for argument on 3-3-16, 7-7-16, 3-10-16, 5-12-16 & on these dates case was adjourned on applications. Thereafter workman remained absent. Workman failed to effectively participate in reference proceeding. Therefore I do not consider it appropriate to discuss evidence in Enquiry proceeding in detail. I have gone through report of Enquiry Officer Exhibit M-22, the evidence in Enquiry Proceeding is considered while recording his findings. The disputed writing was referred to handwriting expert Saroti. The report and opinion of expert was produced in Enquiry Proceedings. As per opinion of handwriting expert, disputed writing was probably written by writer of standard writing marked R-1 to R-4. The standard writing of B.P.Rao was marked as R-1 to R-4. Thus as per opinion of handwriting expert, the disputed documents were written in

writing of workman. Enquiry Report w.r.t. 2nd charge is produced at Exhibit M-38. Enquiry Officer has discussed the evidence in Enquiry Proceedings while recording his findings. Findings of Enquiry Officer cannot be said contrary to the evidence on record.

16. Learned counsel for 2nd party Shri A.K.Shashi relies on ratio held in case between

State of Haryana and another versus Rattan Singh reported in 1977(2)SCC-491. Their Lordship dealing with DE held that Enquiry Officer not bound by strict rules of Evidence Act but by fair play and normal practice. Only total absence but not sufficiency of evidence before tribunal is ground for interference.

In present case considering the evidence in enquiry w.r.t. both the chargesheet, it is not a case of total absence and evidence and therefore no interference is justified.

Next reliance is placed by Shri A.K.Shashi in case between State Bank of India and others versus Ramesh Dinkar Punde reported in 2006(7)SCC-212. Their Lordship dealing with scope of judicial review and interference in DE held that reappraisal of evidence is not permissible dealing with scope of judicial review in the matter of misconduct and punishment. Their Lordship held that plea of leniency on ground of long year of service was rendered was rejected. The respondent as a Bank Officer hold the position of trust where honesty and integrity are inbuilt requirements of functioning and it would not be proper to deal with the matter leniently.

Reliance is also placed in ratio held in case between Union of India versus Nagamalleshwar Rao reported in AIR 1998 SC-III. Their Lordship held Tribunal cannot examine evidence before Enquiry Officer as if it is Appellate Court.

After going through the evidence in Enquiry Proceedings and findings submitted by Enquiry Officer, considering the evidence, I am convinced that the charges/ misconduct alleged against workman are proved. Therefore I record my finding in Point No1 in Affirmative.

17. Point No.2- In view of my finding in Point No.1 charges of misconduct alleged against workman are proved, charges pertain to the fraudulent transactions and negligence in duties by workman, the punishment of dismissal cannot be said shockingly disproportionate.

On above point Shri A.K.Shashi placed reliance in case between Commissioner of Police versus Jayasurian and another reported in 1997(6)SCC-75. Their Lordship dealing with alleged to be based on unreliable evidence held inconsistency very minor order of removal from service passed by Competent Authority on the basis of report, it was held that there was no infirmity in appreciation of evidence adduced in the enquiry. Tribunal was not justified in interfering with findings of competent authority.

In case between West Bokaro Colliery (TISCO) versus Ram Pravesh Singh reported in 2009-I-LLJ-220(SC). Their Lordship dealing with scope of Section 11-A of ID Act held that standard of proof in DE, proceeding is different from that in criminal case. Industrial Tribunal set-aside dismissal of workman. The interference by Tribunal was not warranted.

18. Considering the proved misconduct involved huge amount and negligence punishment of dismissal imposed against workman is proper and legal. No interference is called for. Therefore I record my finding in Point No.2 in Affirmative.

19. In the result, award is passed as under:-

- (1) The action of the management awarding punishment of dismissal without notice to Shri B.Prabhakar Rao., Ex-Head Cashier is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 163/02) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12012/116/2002-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 772.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 163/02) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 16.03.2017.

[No. L-12012/116/2002-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/163/02**

Shri Mukesh Kumar Nair,
Sanjay Nagar Colony, Gwaltoli,
Hoshangabad

...Workman

Versus

Regional Manager,
Central Bank of India,
Regional Office, Above City Post Office,
Mangalwara, Hoshangabad

...Management

AWARDPassed on this 13th day of February 2017

1. As per letter dated 29-11-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/116/2002-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Regional Manager, Central Bank of India, Hoshangabad in terminating the services of Shri Mukesh Kumar Nair w.e.f. 11-3-02 is legal and justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/ to 2/4. Case of Ist party workman is that he was appointed on post of temporary safaikaramchari in 2nd party in 1994 on vacant post in upgrah branch Rasuliya, Hoshangabad. He was continuously working with devotion. He claims to be employed under Section 25 B of ID Act. He had applied number of times for regularization on the post but his representation were not considered. Initially he was paid Rs.15 per day. As per Bipartite Settlement, he was entitled to minimum wages Rs.740 per month. In March 2002, his services were orally terminated by Shri M.M.Shirwad in violation of Section 25-F of ID Act. He was not served with one months notice. After termination of his service, he was unemployed. His services were also terminated in violation of Section 25-G of ID Act while Shri Kodulal was picked up and appointed on post of safaiwala. On such ground workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement at Page 8/1 to 8/10 opposing claim of Ist party workman. 2nd party reiterates that workman as not appointed following recruitment rules, he not completed 240 days continuous service. Burden lies on workman to prove continuous working for more than 240 days. Bank is incorporated under Banking Company's Act 1970 having head office at Nariman Point Mumbai and carries its banking business through its Zonal offices, Regional Offices and branches. As per the procedure prevailing in the Banks, appointment of cleaners, peon, daftary are made after following procedure of recruitment by publication in newspaper and on the basis of the names sponsored by the Employment Exchange. Ist party was not appointed following any such procedure. Workman was engaged for casual nature of work temporarily. There is no employer employee relationship between the parties. Casual engagement of workman doesnot give him right to the post. Ist party workman was doing cleaning work for only 2-2 ½ hours. He was paid Rs.15 per day. He has not completed 240 days continuous service. Workman is not entitled to protection under Section 25-F of ID Act. 2nd party has referred to ratio held in various cases and prays that relief prayed by Ist party workman be rejected.

4. Ist party filed rejoinder at page 9/1 to 9/5 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of the Regional Manager, Central Bank of India, Hoshangabad in terminating the services of Shri Mukesh Kumar Nair w.e.f. 11-3-02 is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

6. The term of reference pertains to legality of termination of services of Ist party workman. Though workman filed affidavit of his evidence supporting his whole contentions in statement of claim, he remained absent for his cross examination, his evidence could not be considered.

7. Management filed affidavit of evidence of Shri M.Thakur Chief Manager supporting whole contentions in Written Statement that workman was temporarily engaged for casual work. Workman was not appointed following recruitment rules. He had not completed 240 days continuous service. Violation of Section 25-F,G is denied. The witness of management has stated that disengagement of workman is covered under Section 2(oo)(bb) of ID Act. In his cross-examination, management's witness says that workman was engaged as casual sweeper in Rasuliya branch on daily wage basis. Documents relating to payments made to workman are not available in the bank. Witness denied that workman had completed 240 days continuous service.

8. Application for production of document was filed by workman. 2nd party was directed to produce documents as per order dated 19-5-09. Management has failed to produce documents. The engagement of workman is admitted. Workman has produced documents Exhibit W-1, 1(a),(b),(c)& (d) - applications by which workman has claimed that he was working temporarily on part time basis since 1994. He claimed regularization on the post. He claimed benefit of wages Rs.740-750 per month as per bipartite settlement. Area of the branch is 400 sq.ft. Exhibit W-2 filed by workman w.r.t. working hours and payment of minimum wages. Exhibit W-3 is copy of pass book, workman was paid wages by the Bank. Those documents clearly shows that workman was working continuously as part time sweeper in the Bank since 1994 till termination of his services. The services of workman are terminated without notice. In his cross, management's witness says that he had not seen documents about payment of retrenchment compensation or issuing notice to the workman. Though workman has not appeared for cross-examination, documents produced in record and evidence in cross examination of management's witness clearly established that workman worked more than 240 days preceding one year of his termination. The services of workman terminated without notice, no retrenchment compensation is paid to him. Termination of workman is illegal for violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Negative.

9. Point No.2- In view of my finding in Point No.1 that termination of workman is illegal, question arises as to whether workman is entitled for reinstatement with backwages. Workman was engaged as temporary sweeper in 1992 on wages Rs.15 per day. His services are terminated in the year 2002. Considering the period of his engagement on part time basis, compensation Rs.75,000 would be appropriate. Accordingly I record my finding in Point No.2.

10. In the result, award is passed as under:-

- (1) The management of Regional Manager, Central Bank of India, Hoshangabad in terminating the services of Shri Mukesh Kumar Nair w.e.f. 11-3-02 is not legal and proper.
- (2) 2nd party management is directed to pay compensation Rs.75,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 773.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ सं. 7/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12012/66/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 773.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 7/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 16.03.2017.

[No. L-12012/66/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 9th March, 2017

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 7/2016

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Overseas Bank and their workman)

BETWEEN :

Sri P. Gopi Ganesh : 1st Party/Petitioner

AND

The General Manager : 2nd Party/Respondent
Indian Overseas Bank
Industrial Relation Department
Central Office
Chennai-600002

Appearance:

For the 1st Party/Petitioner : M/s T. Ramkumar, Advocates

For the 2nd Party/Respondent : M/s K.K. Sivashanmugam, Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/66/2015-IR (B.II) dated 05/13.01.2016 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Management of Indian Overseas Bank is justified in not considering the case of Sri P. Gopi Ganesh for his absorption into the bank? If so, to what relief is Sri Gopi Ganesh is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 7/2016 and issued notices to both sides. Both sides have entered appearance through their counsel and filed their Claim and Counter Statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner are as below:

The petitioner joined the service of the Respondent Bank in September 1989. He had joined as Temporary Sweeper in Padhirivedu Branch. The petitioner had been discharging his duties in a sincere and diligent manner. From the year 1997 onwards the Respondent started engaging him as Sweeper-cum-Messenger. He was being assigned filing work, post office work, sealing work, voucher stitching, etc. also. He was required to work on all days except Sundays.

He was paid wages calculated on daily basis, every week. From the date of his initial appointment he had been employed continuously without any break. The nature of work discharged by the petitioner is permanent and perennial. The Respondent Bank has entered into a settlement on 17.02.2011 for considering absorption of temporary messengers and sweepers. The petitioner was entitled to be absorbed in service on the basis of a settlement. He submitted an application to the Respondent in the prescribed format requesting that he should be absorbed in the service of the Bank. But the Respondent has not taken any action on his application. The dispute is raised accordingly. An Award may be passed holding that the action of the Respondent in not considering the petitioner for absorption is not justified and also directing the Respondent to absorb him in the service of the petitioner with effect from the date on which he has completed 480 days of continuous service in the Bank.

4. The Respondent has filed Counter Statement contending as below:

The Respondent has entered into a settlement with All India Overseas Bank Employees Union on 17.02.2011 under Section-12(3) of the ID Act for considering absorption of temporary messengers and sweepers. The Bank has issued a circular to all the branches regarding regularization of temporary messengers/sweepers who have worked 240 days continuously in the calendar year preceding 15.10.2010 which is the cut-off date as per the Settlement. As per the settlement a candidate for the post of Sweeper should possess a pass in 5th standard but should not have passed 8th standard and should have worked for 240 days in the relevant calendar year. The petitioner did not submit any application in the prescribed format requesting for absorption as per the settlement dated 17.02.2011. The claim made by the petitioner to this effect in the Claim Statement is not correct. The copy of the application and certificates produced by the petitioner are concocted documents. Even assuming that the petitioner has applied for the post of Sweeper he has not produced any documents to support his service details for having worked continuously for 240 days preceding 15.10.2010, the cut-off date. The petitioner has produced the educational testimonial of having failed 10th standard which is over-qualification. Most of the vouchers produced by the petitioner in the Claim Petition are tampered ones. Padhirivedu Branch had permanent messenger for the last 20 years. The service of the petitioner and Geeta were utilized by the Branch as and when required. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the averments in the Counter Statement and reiterating his case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W33 and Ext.M1 to Ext.M7

7. **The points for consideration are:**

- (i) Whether the Respondent is not justified in considering the petitioner for absorption in the Bank?
- (ii) What if any is the relief to which the petitioner is entitled?

The Points

8. The petitioner has claimed that he has started to work in Padhirivedu Branch of the Respondent Bank from September 1989. According to the petitioner he had been continuously working in the establishment from September, 1989. Though initially he was working as Sweeper, he was being engaged as Messenger also from the year 1997. In the meanwhile, on 17.02.2011 the Respondent Bank had entered into a settlement regarding absorption of temporary messengers and sweepers. The petitioner is said to have applied for getting absorption in the Respondent establishment. It is his case that though he is eligible for absorption as per the Settlement his application was not considered by the Bank. He has raised the dispute in the circumstance. The Respondent has stated in its Counter Statement that the petitioner has not produced any records to show that he is eligible to be absorbed as per the settlement. He is said to have not filed an application for absorption.

9. The Respondent or the petitioner have not produced the settlement dated 17.02.2011 on the basis of which the petitioner is claiming absorption in the Respondent establishment. However, the Respondent has produced its circular dated 23.03.2011 on the basis of the settlement regarding absorption. As seen from this, casual / temporary messengers / sweepers are to be absorbed in bank service in a phased manner. Under Phase-I those who have worked for more than 5 years in any of the branches or offices in permanent vacancies and has completed 240 or more days continuously in a calendar year as on 15.11.2010 and still working shall be absorbed before 30.06.2011 subject to their submitting the required information and certificates. As per Phase-II those who have worked for more than 3 years but less than 5 years and have completed 240 days in a calendar year as on 15.11.2010 and are still working are to be absorbed. As per Phase-II those who have been engaged for less than 3 years but have completed 240 or more days as on 15.11.2010 and are still working are to be absorbed. The educational qualification prescribed for Sweepers as per the circular is 5th standard or equivalent but should not have passed 8th standard. Age limit prescribed for sweepers is 40 years.

10. Though the Respondent has contended in the Counter Statement that the petitioner has not submitted any application for absorption, the Respondent has itself produced the copy of the application. Ext.M4 the said document

claims that the petitioner has been working at Padhirivedu Branch from September 1993 and was still working on 21.04.2011, the date of the application. There is a certificate attached to the application which states that the petitioner was being engaged since 1993 and has been engaged continuously for more than 240 days in the calendar year preceding 15.11.2010. However, the certificate does not contain any signature. So it cannot be considered as a certificate at all. MW1, the present Branch Manager of the Padhirivedu Branch has stated in the Proof Affidavit filed by him that the petitioner has not worked as Messenger or Sweeper of the Branch. According to him, one Raman was engaged as Messenger. He has been working as Permanent Messenger from 24.04.1995. It was one Geeta who was temporarily engaged as Sweeper for cleaning the branch premises.

11. The petitioner has given evidence as WW1 reiterating his case in the Claim Statement. However, the documents produced by him are not sufficient to establish his case that he is eligible to be absorbed in the service of the Respondent Bank. Ext.W1 is of course a letter by the Deputy Chief Manager in answer to a letter from Padhirivedu Branch confirming the action of engaging the petitioner as Temporary Sweeper. This is in September 1989. Ext.W2 is the Transfer Certificate of the petitioner and Ext.W3 is the copy of Secondary School Leaving Certificate which itself makes him ineligible for absorption as he has become over-qualified as he has studied upto 10th Standard. As per the norms of the settlement, a person to be absorbed as Sweeper should have passed 5th Standard but should not have passed 8th Standard. Ext.W1 to Ext.W9 are the representations said to have been made by the petitioner regarding absorption. Ext.W20 to Ext.W29 are all letters from one or other Managers stating that the petitioner has worked for some particular days in the Bank. However, all these are of the years in between 1994 and 1999. Ext.W30 to Ext.W32 are again representations said to have been given by the petitioner.

12. Ext.W19 contains several vouchers showing engagement of the petitioner. It is to be seen from these vouchers whether the case of the petitioner that he had worked in the establishment for 240 days preceding the cut-off date is correct. If he is to become eligible for absorption he should have completed work of 240 days or more continuously in the calendar year as on 15.11.2010 and should have been still working at the time when he sought absorption. So to be eligible he should have worked for more than 240 days in between 15.11.2009 and 15.11.2010 and should have been still working. The vouchers included in Ext.W19 are mostly of earlier years. There is one voucher of 2009 and two or three of 2010. However, these are not continuous. It is not clear from these vouchers for how many days the petitioner has worked. Apart from this is the fact that several of the vouchers produced by the petitioner are manipulated ones. The name Geeta written on these vouchers are seen corrected as Gopi Ganesh which is the name of the petitioner. The petitioner has admitted during cross-examination that his wife has been doing the work for some time. He stated that there might have been alterations in the name written in some of the vouchers. He also admitted that the name Geeta is struck off in several of the vouchers. So it is clear that the petitioner has manipulated the vouchers issued to his wife as that of his own. There is nothing to show that the petitioner has worked continuously in the Bank for more than 240 days preceding the cut-off date as per the settlement. Even otherwise he is not eligible to be absorbed as he does not come within the educational qualification prescribed by the Respondent. The petitioner is not entitled to any relief.

In view of the above discussion the reference is answered against the petitioner. An Award is passed accordingly.

(Dictated to the PA transcribed and typed by him, corrected and pronounced by me in the open court on this day the 9th March, 2017).

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1 st Party/Petitioner	:	WW1, Sri P. Gopi Ganesh
For the 2 nd Party/Management	:	MW1, Sri Joel Ashirwad Kotha

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	08.09.1989	Letter of the Deputy Chief Manager to the Branch Manager recommending the petitioner to be engaged as a temporary sweeper in Padhirivedu Branch
Ext.W2	-	Transfer Certificate of the petitioner
Ext.W3	March 1989	Secondary School Leaving Certificate of the petitioner
Ext.W4	21.04.2011	Application of the petitioner seeking absorption based on the settlement dated 17.02.2011

Ext.W5	03.08.2013	Representation of the petitioner seeking absorption of Services
Ext.W6	04.11.2013	Representation of the petitioner seeking absorption of his services
Ext.W7	18.07.2014	Representation of the petitioner seeking absorption of his services
Ext.W8	25.07.2014	Representation of the petitioner seeking absorption of his services
Ext.W9	10.09.2014	Representation of the petitioner seeking absorption of his services
Ext.W10	11.09.2014	Representation of the petitioner seeking absorption of his services
Ext.W11	17.09.2014	Representation of the petitioner seeking absorption of his services
Ext.W12	19.07.2014	Representation of the petitioner seeking absorption of his services
Ext.W13	30.09.2014	Representation of the petitioner seeking absorption of his services
Ext.W14	13.10.2014	Representation of the petitioner seeking absorption of his services
Ext.W15	16.10.2014	Representation of the petitioner seeking absorption of his services
Ext.W16	18.10.2014	Representation of the petitioner seeking absorption of his services
Ext.W17	20.10.2014	Representation of the petitioner seeking absorption of his services
Ext.W18	20.10.2014	Representation of the petitioner seeking absorption of his services
Ext.W19	September	Vouchers raised regarding engagement of the 1989 to petitioner 06.03.2015
Ext.W20	17.10.1994	Letter regarding engagement of the petitioner
Ext.W21	23.10.1994	Letter regarding engagement of the petitioner
Ext.W22	25.10.1994	Letter regarding engagement of the petitioner
Ext.W23	22.11.1994	Letter regarding engagement of the petitioner
Ext.W24	5/1996	Letter regarding engagement of the petitioner
Ext.W25	28.05.1996	Letter regarding engagement of the petitioner
Ext.W26	19.06.1997	Letter regarding engagement of the petitioner
Ext.W27	28.06.1997	Letter regarding engagement of the petitioner
Ext.W28	30.04.1998	Letter regarding engagement of the petitioner
Ext.W29	08.11.1999	Letter regarding engagement of the petitioner
Ext.W30	17.09.2014	Representation given by the petitioner
Ext.W31	13.10.2014	Representation given by the petitioner
Ext.W32	01.07.2015	Representation given by the petitioner
Ext.W33	21.04.2011	Undertaking letter given by the petitioner to the Respondent Bank in terms of Clause 3(b) of the Settlement for absorption with the certificate from Branch Head

On the Management's side

Ex.No.	Date	Description
Ext.M1	-	Copy of the circular dated 23.03.2011 issued by the Respondent regarding absorption of messengers/sweepers
Ext.M2	-	Investigation report on complaint received from the petitioner dated 18.06.2015
Ext.M3	-	Copies of payment vouchers of 2010 for payment to temporary sweeper made on weekly basis to Ms. Geetha
Ext.M4	-	Copy of Annexure A submitted by the petitioner dated 21.04.2011
Ext.M5	-	Copy of unsigned service certificate submitted by the petitioner dated 21.04.2011
Ext.M6	-	Copy of relevant page of dispatched register of Padhirivedu Branch from 09.02.2011 to 29.04.2011
Ext.M7	-	Copy of SSLC Certificate of the petitioner dated 15.06.1989.

नई दिल्ली, 16 मार्च, 2017

का.आ. 774.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 9/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12011/57/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 774.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 9/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 16.03.2017.

[No. L-12011/57/2012-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR**

BHARAT PANDEY, Presiding Officer

I.D.9/2013

Reference No. L-12011/57/2012-IR(B-II) Dated: 22.11.2012

General Secretary
All Bank Safai karamchari sangh
Dehanwal Bhawan, Sitabari,
Kamani Road, Harijan Basti, Jhotwara,
Jaipur

V/s

General Manager
Punjab National Bank
Circle Office
Nehru Place, Tonk Road,
Jaipur

Present :

For the Applicant : Sh. C.D.Chaturvedi.

For the Non-Applicant : Sh. Rajendra Vaish, Advocate.

AWARD

Dated : 12.1.2017

1. The Central Government in exercise of powers conferred under clause (d) of Sub-Section 1 & 2 (A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication :-

“Whether the management of Punjab National Bank, Nehru Place, Tonk Road, Jaipur has terminated the services of Smt. Indira Devi, PTS w.e.f. 9.12.2011 and it is fair, legal and justified? If not to what relief she is entitled?”

2. According to the brief fact of the case the workman Smt. Indira Devi was working as a temporary part time sweeper at Currency chest, PNB, Nehru place, Jaipur w.e.f. 17.12.2008. She was performing the above duty to the utmost satisfaction of the Bank management. Keeping in view of her more than three years' continuous temporary service, she applied to the bank management for her regularization in the Banks' service vide her application dated 19.9.2011. When no positive response was given by the Bank management, she again applied to the Bank on 5th Dec, 2011 and due to annoyance from her repeated representations, bank management terminated her services w.e.f. 9th

December, 2011 without following the mandatory provisions of I.D. Act, 1947 and I.B.P. Settlement of Banking Industry. Her services were terminated by the bank in contravention of section 25-F, 25-G & 25-H of Industrial Disputes Act, 1947 & Rule no. 76 and 77 of Industrial Disputes (Central) Rules, 1956. It has been alleged that details relating to violation of section 25-F & 25-G will be submitted before the tribunal during further proceeding of the case.

3. It has been further alleged that there has been a cogent infringement of section 522 (4) of Sastry award alongwith Section 22(12) and 22(8) of I.B.P. Settlement of Baking Industry which are meant for temporary Employees. It has been prayed that termination of her services w.e.f. 9.12.2011 may be declared unfair, illegal, void & unjustified & bank management further be directed to reinstate her in the service with all consequential service benefits.

4. In reply to statement of claim preliminary objections raised by opposite party read as under :-

Without prejudice to the submissions, the answering respondents hereby raise the following preliminary objections which goes to the root of the matter and needs to be decided at the thresh hold.

- a. That the alleged claimant Smt. Indira Devi was never appointed by the respondent bank as a whole time or even as part time sweeper. There was no recruitment whatsoever through the regular process of employment and no appointment letter was ever issued to her. Since smt. Indira devi had never been appointed/engaged as temporary part time sweeper, there exists no employer employee relationship between the respondent bank and the claimant smt. Indira devi. Thus she is not a “ Workman ” under section 2 of the ID Act, 1947 and no dispute or claim rests against the respondent bank.
- b. That the respondent bank has a procedure for recruitment of its employees whether full time or even part time and as already stated Smt. Indira Devi was never appointed by the respondent bank as a whole time or even as a part time sweeper. There was no recruitment whatsoever through the regular process of employment and no appointment letter was ever issued to her. Without prejudice to the submissions of the respondent bank, appointment through back door entry or dehores the rules does not entitle any employee for any relief whatsoever. The view had been stated by the larger bench of the Hon’ble Supreme court in the case of State of Karnataka V/s Uma Devi in 2006 and catena of cases have been decided thereafter affirming the above view. On this count alone the statement of claim filed by the alleged claimant Smt. Indira Devi is liable to be rejected.
- c. That the claimant has neither filed any document on record nor has made any specific submissions to support her alleged versions and in absence of any documentary evidence or proof, mere allegations raised in the statement of claim are liable to be rejected at the threshold.

Parawise reply

5. In parawise reply to statement of claim para 1,2,3,4,5,6,7 & 8 of the statement of claim have been said to be false, baseless, incorrect, misconceived & emphatically denied. It has been further alleged that claimant Smt. Indira Devi was never appointed by the respondent bank as a whole time or even as a part time sweeper. There was no recruitment whatsoever through the regular process of employment and no appointment letter was ever issued to her. Smt. Indira Devi had never been appointed/engaged as temporary part time sweeper. It has been further alleged that since there exists no relationship of employer-employee between opposite party and claimant the question or issue of performing the duties with utmost satisfaction is of no avail. Further in reply to para 3 of statement of claim it has been alleged that the respondent bank had received representations dated 5.12.2011 and 7.12.2011 wherein Smt. Indira Devi had stated that she belongs to a poor society and learnt that some vacancy existed in the bank therefore she may be appointed as part time sweeper. As already stated above claimant smt. Indira Devi was never appointed by the Bank therefore no question of alleged termination whatsoever arises and there was no termination.

6. In reply to para 4 & 5 it has been alleged that claimant smt. Indira Devi does not fall in the ambit of section 2(s) of the ID Act and further there exists no employer-employee relationship and there is no alleged termination hence, violation of the mandate of Section 25-F of the ID act 1947 is of no avail and the matter is not of violation of Section 25-F. In reply to para 6 & 7 it has been alleged that claimant Smt. Indira Devi does not fall in the ambit of Section 2(s) of the ID Act and further there exists no employer-employee relationship and there is no alleged termination ,hence, violation of the mandate of Section 25-G,25-H of the ID Act is of no avail and the matter is not of violation of Section 25-G , 25-H. Accordingly there is no violation Rule 76 and 77 of the Industrial Disputes (Central) Rules, 1957 .

7. It has been further alleged in reply to para 8 of claim that the provisions of the Shastri Award are neither applicable in the present case nor had been violated and reliance on these provisions by the applicant claimant is only misconceived. She does not fall in the alleged category. It has been prayed that reply of the opposite party be taken on record and after consideration of the submissions made therein statement of claim of the claimant may kindly be dismissed.

8. Reply to statement of claim was filed by opposite party on 20.11.2014 & next date for filing rejoinder & document by applicant was fixed on 5.2.2015. From 5.2.2015 till 12.1.2017 thirteen opportunities were given to applicant for filing rejoinder & document but till 12.1.2017 applicant has failed to act for further advancement of the case proceeding. Since 15.6.2016 applicant stopped coming for further participation in the case yet further opportunities were given to the applicant on 31.8.2016, 27.11.2016, 15.12.2016, 28.12.2016 & 12.1.2017 for filing rejoinder & documents so that case may proceed further but applicant side has failed to file rejoinder & document & participate further in the proceeding of the case. On all these dates for period of nearly 4 months case was adjourned by tribunal suo-moto on its own motion in the interest of justice. After being satisfied that applicant is continuously not appearing for further proceeding in the case & not interested in continuing it, further proceeding in the case was closed on 12.1.2017 & case was reserved for award.

9. From the above fact & circumstances it is evident that applicant has failed to take part by continuously absenting himself & failing to file rejoinder & document since 5.2.2015 till 12.1.2017. Due to absence applicant has further failed to adduce evidence relating to reference under adjudication. In above circumstances & for want of evidence tribunal is unable to adjudicate the reference in question. Accordingly, I am of the view that owing to lack of evidence applicant has failed to prove that termination of services of applicant Smt. Indira Devi, PTS w.e.f. 9.12.2011 by management of Punjab National Bank, Nehru Place, Tonk Road, Jaipur is not fair, legal & justified. Accordingly, applicant is not entitled to any relief & the petition of the applicant is liable to be dismissed. The statement of claim of the applicant is dismissed accordingly.

10. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 775.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 54/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12012/7/2011-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 775.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 16.03.2017.

[No. L-12012/7/2011-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 15th February, 2017

Reference: (CGITA) No. 54/2011

The Assitant General Manager,
Indian Bank, Circle Office,
Rudra Arcade, Helmate Circle,
132 Feet Road, Memnagar,
Ahmedabad (Gujarat)

...First Party

V/s

Shri Kantibhai S. Damor,
166, Shyam Bunglow, IOC Road,
Chandkheda,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri K.V. Gadhia Associates

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/7/2011-IR(B-II) dated 13.06.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Assistant General Manager, Indian Bank, Ahmedabad in removing Shri Kantibhai S. Damor from service by way of compulsory retirement vide order dated 12.02.2009 is legal and justified? What relief the workman is entitled to?”

1. The reference dates back to 13.06.2011. The second party submitted the statement of claim Ex. 5 on 08.10.2013 and the first party submitted the written statement Ex. 6 on 08.10.2013 along with the documents vide list Ex. 7. Since then the second party has been absent and has not been leading evidence despite given last opportunity even in his absence. Thereafter, three dates were also given for leading evidence but to no result. Thus it appears that the second party has not been willing to prosecute the reference.

2. Thus, in the absence of the evidence of the second party workman, the reference is disposed of with the observation as under: “the action of the management of Assistant General Manager, Indian Bank, Ahmedabad in removing Shri Kantibhai S. Damor from service by way of compulsory retirement vide order dated 12.02.2009 is legal and justified.”

3. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 776.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 31/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12011/57/2009-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 776.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 16.03.2017.

[No. L-12011/57/2009-IR (B-II)]

RAVI KUMAR, Desk Officer

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भरत पाण्डेय, पीठासीन अधिकारी

रेफरेन्स नं. एल-12011/57/2009-आईआर (बी-II) दिनांक 08/10/2009

General Secretary,
P.N.B. Workers Organisation,
C-13, Ojhaji ka Bagh,
Gandhi Nagar Mod,
Jaipur (Rajasthan)

v/s

The Zonal Manager,
Punjab National Bank
2, Nehru Place, Tonk Road,
Jaipur – Rajasthan

प्रार्थी की तरफ से : श्री आर. सी. जैन – प्रतिनिधि
अप्रार्थी की तरफ से : श्री राजेन्द्र अरोरा – एडवोकेट

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दिनांक : 30. 1. 2017

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 उपधारा 1खण्ड (घ) के अन्तर्गत दिनांक 08.10.2009 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :-

“Whether Shri Rajeev Saxena Spl. Asstt. while posted in Kotwali Road, Sikar Branch of PNB is entitled for officiating allowance for discharging his duties for higher post from 16/11/2006 to 30/5/2008 in the absence of written and specific order of the bank management? what relief the claimant is entitled to?”

2. याचिका में दिये गये तथ्य के अनुसार संक्षिप्ततः प्रार्थी यूनियन का कथन है कि श्री राजीव सक्सेना पंजाब नेशनल बैंक शाखा कोतवाली रोड, सीकर में विशेष सहायक के पद पर कार्यरत है एवं हमारे संगठन के पदाधिकारी हैं।

3. बैंक में कार्यरत लिपिकों/विशेष सहायकों द्वारा उच्च भत्ता प्राप्त पदों से सम्बन्धित कार्य करने पर उन्हें स्थानापन्न भत्ता दिया जाता है तथा भत्ते की राशि विभिन्न द्विपक्षीय समझौतों में तय की हुई है।

4. कामगार टेड यूनियन संगठनों एवं भारतीय बैंक संघ के मध्य सम्पन्न आठवें द्विपक्षीय समझौता दिनांक 02.06.2005 के पैरा 26 में officiality pay के मामले में दिये गये प्रावधान निम्न प्रकार है :-

"In partial modification of paragraph III(I) of bipartite settlement dated 8th November 1973, if a workman other than subordinate staff officiates in a post in higher cadre either for a continuous period of 7 days or more or an aggregate of 7 days in a calendar month, he shall be paid with effect from 1st June 2005 officiating pay at the rates laid down in clauses 9.11(a)(i) or 9.11(a)(ii) of the Bipartite settlement dated 19th October 1966."

5. श्री राजीव सक्सेना शाखा कोतवाली रोड, सीकर से कम्प्यूटर पर अधिकारी संवर्ग जे.एम.जी. प्रथम की पावर देकर दिनांक 16.11.2006 से ही अधिकारी जे.एम.जी. प्रथम के अधिकार क्षेत्र के नगदी निकासी रु.2 लाख तक टान्सफर रु. 5 लाख तक एवं समाशोधन के वाउचर पास करवाये जा रहे थे। यह वाउचर डे एण्ड से पूर्व सक्षम अधिकारी द्वारा अधिकृत किये जा रहे हैं तथा मार्निंग चैकिंग में भी इन वाउचरों को शाखा प्रबन्धक द्वारा अधिकृत किया जा रहा है।

6. उपरोक्त क्रमांक 5 में वर्णित अधिकारी संवर्ग के कार्य करवाये जाने के बावजूद श्री राजीव सक्सेना को दिनांक 16.11.2006 से अधिकारी संवर्ग का स्थानापन्न भत्ता नहीं दिया जा रहा है एवं उनसे कनिष्ठ लिपिकों श्री अनिल जैन, श्री छत्रपति संगतानी एवं श्रीमती कमलेश रचेता को स्थानापन्न भत्ता दिया गया है जिनके द्वारा अधिकारी संवर्ग का संदर्भित दिवसों को कोई कार्य ही नहीं किया गया है।

7. उपरोक्त क्रमांक 5 व 6 में वर्णित मामले से अवगत करवाते हुए श्री राजीव सक्सेना द्वारा दिनांक 16.11.06 से अधिकारी संवर्ग के स्थानापन्न भत्ते की मांग वरिष्ठ प्रबन्धक शाखा कोतवाली रोड, सीकर से दिनांक 10.12.2007 को की गई।

8. उपरोक्त क्रमांक 7 में वर्णित पत्र का जवाब वरिष्ठ प्रबन्धक शाखा कोतवाली रोड, सीकर द्वारा पत्र दिनांक 15.12.2007 के माध्यम से दिया गया जिसमें उन्होंने अवगत कराया कि यह शाखा प्रभारी का विवेकाधिकार है कि वह वरिष्ठ स्टॉफ सदस्य की वरिष्ठता लॉघकर कनिष्ठ बैंक कर्मी को स्थानापन्न भत्ता प्रदान करें। उनके द्वारा यह भी अवगत कराया गया कि जो लिपिक सांय 5.00 बजे बाद देर तक बैठकर अपनी सीट का लम्बित लिपिकिय कार्य सम्पन्न करता है वह ओवरटाइम के स्थान पर अधिकारी संवर्ग के स्थानापन्न भत्ते का अधिकारी है, वह भी वरिष्ठ बैंक कर्मी की वरिष्ठता लांघकर।

9. प्रार्थी द्वारा उपरोक्त सम्पूर्ण स्थिति से पत्र क्रमांक राज/स्टॉफ/2008-05 दिनांक 07.04.08 के जरिये वरिष्ठ क्षेत्रीय प्रबन्धक वर्तमान परिवर्तित पद मण्डल प्रबन्धक, अलवर क्षेत्र अलवर को अवगत कराया गया परन्तु अप्रार्थी क्रमांक-2 मण्डल प्रबन्धक द्वारा भी अभी तक कोई कार्यवाही नहीं की गई है। उक्त आधार पर याची ने वांछित अनुतोष हेतु याचिका प्रस्तुत की है।

10. विपक्षी की तरफ से वादोत्तर में कहा गया है कि श्री राजीव सक्सैना, विशेष सहायक, बैंक की शाखा के यू.एम.एस. सीकर में स्थायी रूप से कार्यरत थे। उन्हें दिनांक 16.11.2006 को शाखा कोतवाली रोड, सीकर में प्रतिनियुक्त किया गया था जहाँ दिनांक 1.10.2007 के आदेश द्वारा स्थायी रूप से तैनात कर दिया गया। श्री राजीव सक्सैना को जे.एम.जी.-1 में पदोन्नति हेतु आयोजित साक्षात्कार में दिनांक 26.07.2006 को बुलाया गया लेकिन वे स्वयं की बिमारी के कारण साक्षात्कार में उपस्थित नहीं हुए। अतः उन्हें बैंक के पत्र दिनांक 1.12.2006 जिसकी प्रति प्रदर्श एक संलग्न है, एक वर्ष के लिये जे.एम.जी. 1 पद पर स्थायी पदस्थापना एवं स्थानापन्न हेतु डिबार कर दिया गया। श्री राजीव सक्सैना द्वारा प्रस्तुत आवेदन दिनांक 18.12.06 जिसकी प्रति प्रदर्श दो संलग्न है, पर विचार कर सक्षम प्राधिकारी द्वारा दिनांक 30.4.2007 को डिबार निरस्त किया गया, जिसकी प्रति प्रदर्श तीन संलग्न है।

11. श्री राजीव सक्सैना को दिनांक 9.5.07 को पुनः जे.एम.जी. प्रथम में साक्षात्कार हेतु बुलाया गया लेकिन वे पुनः स्वयं की बिमारी के कारण साक्षात्कार में उपस्थित नहीं हुए अतः उन्हें बैंक के पत्र दिनांक 23.05.2007 के माध्यम से सूचना भेजकर जिसकी प्रति प्रदर्श चार संलग्न है, एक वर्ष के लिए दिनांक 9.5.07 से 8.5.08 तक जे.एम.जी. प्रथम पद पर पदस्थापना एवं स्थानापन्न हेतु डिबार किया गया। तथापि श्री राजीव सक्सैना के अभ्यावेदन जिसकी प्रति प्रदर्श पाँच संलग्न है, पर विचार कर सक्षम प्राधिकारी द्वारा दिनांक 29.5.07 को डिबार निरस्त कर दिया गया। इस पत्र की प्रति प्रदर्श छः पर संलग्न है। इसके बाद जवाब में प्रारम्भिक आपत्तियाँ प्रस्तुत हैं जो निम्न प्रकार हैं :-

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- I. प्रार्थी यूनियन द्वारा माननीय न्यायाधिकरण के समक्ष प्रस्तुत तथाकथित विवाद उचित एवं वैध तरीके जिस प्रकार औद्योगिक विवाद अधिनियम 1947 में उल्लेखित है, द्वारा नहीं उठाया गया है, अतः यह तथाकथित विवाद अधिनियम के अन्तर्गत परिभाषित "औद्योगिक विवाद की श्रेणी नहीं आता है, अतः इसे स्वीकार नहीं किया जा सकता।
- II. स्थानापन्न भत्ता एक क्रियात्मक भत्ता है, जो कि कर्मकार को विशेष दायित्व का निर्वहन करने पर ही भुगतान किया जा सकता है। विशेष कार्य दायित्व कर्मकार के नियमित कार्य दायित्व से उच्चतर पद का कार्य दायित्व सक्षम प्राधिकारी के आदेशानुसार करने पर देय होता है।
- III. सक्षम प्राधिकारी द्वारा श्री राजीव सक्सैना को विवाद में उल्लेखित अवधि में अधिकारी पद पर स्थानापन्न कार्य करने के लिये अधिकृत नहीं किया गया।
- IV. श्री राजीव सक्सैना द्वारा उल्लेखित अवधि में कभी भी अधिकारी के पद दायित्व वाले कार्य नहीं किये।
- V. उल्लेखित अवधि में उनकी पदस्थापना प्रतिनियुक्ति पर होने एवं अधिकारी पद पर उनकी पदस्थापना एवं स्थानापन्न हेतु डिबार होने के आधार पर भी श्री राजीव सक्सैना स्थानापन्न भत्ते हेतु पात्र नहीं था।

12. अतः श्री राजीव सक्सैना को उल्लेखित अवधि हेतु स्थानापन्न भत्ते का भुगतान किया जाना उचित, अपेक्षित एवं विधि सम्मत नहीं है। तथापि यदि उक्त वर्णित प्रकरण में तथ्य एवं प्रारम्भिक आपत्तियों के निस्तारण उपरान्त माननीय न्यायाधिकरण इस प्रकरण का गुणावगुण पर निस्तारण करना उचित समझे तो अप्रार्थी बैंक की ओर से स्टेटमेंट ऑफ क्लेम का बिन्दुबार जवाब निम्न प्रकार प्रस्तुत है।

13. क्लेम के पैरा एक में वर्णित कथन के सन्दर्भ में लेख है कि श्री राजीव सक्सैना, विशेष सहायक बैंक, की कोतवाली रोड, सीकर शाखा में दिनांक 16.11.06 से प्रतिनियुक्त किये गये जिन्हें दिनांक 10.1.07 के आदेश से उसी शाखा में पदस्थापित किया गया। श्री राजीव सक्सैना का संगठन के पदाधिकारी होने का तथ्य एवं कथन इस प्रकरण से अप्रार्थी के लिये सुसंगत नहीं है, अतः इस पर कोई टिपणी अपेक्षित नहीं है।

14. क्लेम के दो एवं तीन में वर्णित कथन अभिलेख से सम्बन्धित हैं, जिन पर अप्रार्थी की टिप्पणी विशेष अपेक्षित नहीं है। तथापि यहाँ यह उल्लेख करना प्रासंगिक है कि स्थानापन्न भत्ता तभी दिया जाता है जब सक्षम प्राधिकारी द्वारा किसी कर्मचारी से उच्च पद पर कार्य करवाना अपेक्षित हो तथा उसे ऐसे कार्य करने हेतु निर्देश दिये जाये जिनकी अनुपालन में कर्मचारी द्वारा उच्च दायित्व के कार्य निष्पादित किया जाये जबकि प्रस्तुत प्रकरण में न तो श्री राजीव सक्सेना को उच्च पद के कार्य करने हेतु सक्षम प्राधिकारी द्वारा निर्देश दिये गये और न ही उन्होंने उच्च पद के किसी कार्य दायित्व का निर्वहन किया, अतः उनके द्वारा स्थानापन्न भत्ते का भुगतान किये जाने की मांग करने का कोई औचित्य नहीं है।

15. क्लेम के पैरा चार में कथन जिस प्रकार वर्णित है, स्वीकार नहीं है। प्रार्थी का यह कथन सही नहीं है कि श्री राजीव सक्सेना से जे.एम.जी. प्रथम अधिकारी की पावर देकर नकदी रुपये 2.00 लाख तथा टान्सफर एवं क्लीयरिंग रुपये 5.00 लाख तक के वाउचर दिनांक 16.11.2006 से पास करवाये गये। बैंक प्रबन्धन द्वारा श्री राजीव सक्सेना को उल्लेखित अवधि में अधिकारी वर्ग में स्थानापन्न कार्य करने हेतु ना कोई आदेश दिया गया और ना ही उनसे ऐसा कोई कार्य लिया गया। प्रार्थी यूनियन द्वारा केवल मात्र यह कथन करना कि ये वाउचर डे एंड से पूर्व सक्षम अधिकारी द्वारा अधिकृत किये जा रहे हैं तथा चैकिंग में भी इन वाउचरों को शाखा प्रबन्धक द्वारा अधिकृत किया जा रहा है, श्री राजीव सक्सेना स्थानापन्न करने हेतु पात्र नहीं हो जाते और ना ही इस आधार पर उन्हें स्थानापन्न भत्ते का भुगतान किया जा सकता है।

16. क्लेम के पैरा पाँच में कथन जिस प्रकार वर्णित है, स्वीकार नहीं है। जहाँ तक श्री राजीव सक्सेना को स्थानापन्न भत्ते का भुगतान न किये जाने का कथन है, उसका पूर्व पैरा में उत्तर दिया जा चुका है कि उन्हें स्थानापन्न भत्ते का देय नहीं था। तथापि प्रार्थी यूनियन का यह कथन कि उनसे कनिष्ठ लिपिकों यथा श्री अनिल जैन, श्री छत्रपति संगतानी एवं श्रीमति कमलेश रूचेता को स्थानापन्न भत्ता दिया गया एक वेग (vague) एवं जनरल कथन है जिसका उत्तर प्रार्थी यूनियन द्वारा पूर्व विवरण उपलब्ध करवाने पर ही दिया जा सकता है कि किस कर्मचारी को किस अवधि हेतु कब एवं कितनी राशि का भुगतान किन परिस्थितियों में किया गया।

17. क्लेम के पैरा 6 में कथन जिस प्रकार वर्णित है, स्वीकार नहीं है। श्री राजीव सक्सेना द्वारा अपने पत्र दिनांक 10.12.07 द्वारा उन्हें दिनांक 16.11.2006 से स्थानापन्न भत्ते दिये जाने की मांग की गयी किन्तु उनके द्वारा यह मांग लगभग एक वर्ष पश्चात विलम्ब से एवं अन्य कनिष्ठ कर्मचारों को भुगतान किये गये स्थानापन्न भत्ते का पूर्ण विवरण उपलब्ध करवाये बिना की गयी। कर्मकार द्वारा विलम्ब का कोई कारण भी उल्लेख नहीं किया गया।

18. क्लेम के पैरा 7 में कथन जिस प्रकार वर्णित है, स्वीकार नहीं है। यद्यपि बैंक के पत्र दिनांक 15.12.07 द्वारा कर्मचारी को जवाब दिया जाने का कथन स्वीकार है तथापि यहाँ यह उल्लेख करना प्रासंगिक होगा कि कर्मकार द्वारा उसे आवंटित कार्य ही समय पर एवं सही ढंग से नहीं किया जा रहा था, जिसका स्पष्ट उल्लेख शाखा प्रबन्धक द्वारा इसमें किया गया है। शाखा प्रबन्धक द्वारा की गई अन्य टिप्पणी सुसंगत नहीं है।

19. क्लेम के पैरा 8 में कथन जिस प्रकार वर्णित है, स्वीकार नहीं है। प्रार्थी द्वारा तत्कालिन क्षेत्रीय प्रबन्धक को इस प्रकरण से सम्बन्धित पत्र लिखा गया किन्तु मण्डल प्रबन्धक द्वारा प्रकरण की तथ्यात्मक जानकारी प्राप्त कर निर्णय से पूर्व ही तथाकथित विवाद उठाया गया। तथापि यहाँ यह उल्लेख करना प्रासंगिक होगा कि इस प्रकरण की तथ्यात्मक जानकारी प्राप्त करने एवं अभिलेख का अवलोकन करने पर श्री राजीव सक्सेना द्वारा स्थानापन्न भत्ते के भुगतान की मांग को स्वीकार किये जाने योग्य नहीं पाया गया। विपक्ष ने प्रार्थना की है कि याचिका सारहीन होने के कारण खारिज की जाय।

20. विपक्ष द्वारा याची की याचिका का जवाब दिनांक 28.9.2010 को प्रस्तुत किया गया है। जवाब के विरुद्ध याची पक्ष को न्यायाधिकरण द्वारा रिज्वायन्डर एवं दस्तावेज प्रस्तुत करने हेतु पाँच अवसर प्रदान किये गये हैं। प्रार्थी पक्ष द्वारा रिज्वायन्डर एवं दस्तावेज न प्रस्तुत करने के कारण तत्कालिन विद्वान पीठासीन न्यायाधिश द्वारा रिज्वायन्डर एवं दस्तावेज प्रस्तुत करने का अवसर समाप्त किया गया है।

21. याची पक्ष की तरफ से याचिका के समर्थन में कोई मौखिक या प्रलेखीय साक्ष्य नहीं प्रस्तुत है। विपक्ष की तरफ से दिनांक 15.5.12 को फिहरिस्त से कुल 13 अभिलेखों की फोटोप्रति प्रस्तुत है जिसमें पत्राचार की फोटोप्रतियाँ, चिकित्सा प्रमाण-पत्र और स्वस्थता प्रमाण पत्र की फोटोप्रति आदि अभिलेख प्रस्तुत है। विपक्ष की तरफ से कोई मौखिक साक्ष्य इस आधार पर नहीं प्रस्तुत है कि याची ने कोई साक्ष्य नहीं प्रस्तुत किया है इसलिए विपक्ष को कोई साक्ष्य नहीं प्रस्तुत करना है।

22. मैंने विपक्षी के विद्वान अधिवक्ता की बहस सुनी तथा पत्रावली का सम्यक अवलोकन किया। याची पक्ष की तरफ से बहस के लिए कोई उपस्थित नहीं आया।

23. याचिका के अवलोकन से यह जाहिर है कि याची ने इस अनुतोष हेतु याचिका प्रस्तुत की है कि क्या श्री राजीव सक्सेना 16.11.06 से 30.5.08 की अवधि के लिए उच्च पद के कार्य का सम्पादन करने के कारण वांक्षित भत्ता पाने के

हकदार है। दिनांक 26.7.12 से प्रार्थी को साक्ष्य प्रस्तुत करने के लिये अवसर दिया जा रहा है। विपक्ष द्वारा याची पक्ष की तरफ से साक्ष्य न प्रस्तुत करने का 23.6.14 को विरोध किया गया जिस पर यह आदेश हुआ कि अगली तिथि 15.7.14 को साक्ष्य नहीं प्रस्तुत होता तो एकपक्षीय साक्ष्य का आदेश पारित किया जायेगा। इसके बाद भी 29.10.14 को विपक्ष द्वारा विरोध किया गया। इसके बाद हर्जे पर मुलतवी कर 3.12.14 को साक्ष्य प्रस्तुत करने का अवसर दिया गया। दिनांक 16.9.95 को अन्तिम अवसर प्रदान किया गया तथा अगली तिथि 10.11.15 को साक्ष्य प्रस्तुत करने का अवसर दिया गया। इसके बाद भी 10.11.15 तथा 8.12.16 के बीच लगभग सात अवसर प्रदान किये गये परन्तु साक्ष्य प्रस्तुत नहीं हुआ। यह देखते हुए कि मामले में याची पक्ष को कोई रुचि नहीं है, याची को साक्ष्य का अवसर 8.12.16 को समाप्त किया गया एवं अगली तिथि दिनांक 10.1.17 को विपक्ष को साक्ष्य प्रस्तुत करने का अवसर प्रदान किया गया। विपक्ष के विद्वान प्रतिनिधि ने दिनांक 10.1.17 को बयान किया कि याचीपक्ष ने कोई साक्ष्य नहीं प्रस्तुत किया है, इसलिए विपक्ष को साक्ष्य नहीं प्रस्तुत करना है। विपक्ष के विद्वान प्रतिनिधि के उक्त बयान के आधार पर विपक्ष का साक्ष्य समाप्त किया गया। उक्त तथ्य एवं परिस्थिति से यह प्रकट है कि याची ने इस तथ्य को साबित करने के लिए कोई साक्ष्य नहीं प्रस्तुत किया है कि दिनांक 16.11.06 से 30.5.08 तक की अवधि हेतु याची उच्च पद पर काम किया है, न ही यह तथ्य साबित किया है कि बैंक प्रबन्धन के बिना लिखित एवं विशिष्ट आदेश के याची उक्त अवधि हेतु उच्च पद पर कार्य करने के बदले किसी भत्ते (officiating allowance) को पाने का हकदार है।

24. उक्त व्याख्या एवं विश्लेषण के आधार पर मैं इस निष्कर्ष पर हूँ कि याची पक्ष यह तथ्य सिद्ध करने में असफल है कि श्री राजीव सक्सेना, स्पेशल असिस्टेंट, पंजाब नेशनल बैंक के सीकर रोड ब्रान्च में नियुक्त रहते हुए दिनांक 16.11.06 से 30.5.08 के अवधि में उच्च पद के कार्य का कार्य सम्पादन करने हेतु बैंक द्वारा बिना लिखित और विशिष्ट आदेश के वांछित भत्ता (officiating allowance) पाने के हकदार हैं, अतः श्री राजीव सक्सेना किसी अनुतोष को पाने के हकदार नहीं है। याची की याचिका तदनुसार खारिज की जाती है। मन्त्रालय द्वारा इस मामले में न्यायनिर्णयन हेतु प्रेषित रिफरेन्स का उत्तर तदनुसार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 16 मार्च, 2017

का.आ. 777.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 60/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12011/60/2006-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 777.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 60/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 16.03.2017.

[No. L-12011/60/2006-IR (B-II)]

RAVI KUMAR, Desk Officer

अनुबंध

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भरत पाण्डेय, पीठासीन अधिकारी

रेफरेन्स नं. एल-12011/60/2006-आईआर (बी-II) दिनांक 15/09/2006

महामंत्री,
सेन्ट्रल बैंक वर्कर्स ऑरगेनाइजेशन,
सी-13, ओझा जी का बाग,
गांधी नगर मोड़,
जयपुर - (राजस्थान)

...बनाम

1. अध्यक्ष एवं प्रबन्ध निदेशक,
सेन्ट्रल बैंक ऑफ इण्डिया,
चन्द्र मुखी, नरिमन पार्इन्ट, मुम्बई।
2. वरिष्ठ प्रबन्धक (पेंशन),
सेन्ट्रल बैंक ऑफ इण्डिया, (पेंशन विभाग),
एन.सी.एल. बान्द्रा प्रिमाइसेस को.ओ.सो. लि.,
प्लॉट नं. सी-6, ब्लॉक 'ई', पांचवी मंजिल,
बान्द्रा कुर्ला कॉम्प्लेक्स, बान्द्रा (पूर्व) मुम्बई-400051
3. सहायक महाप्रबन्धक,
सेन्ट्रल बैंक ऑफ इण्डिया,
क्षेत्रीय कार्यालय, आनन्द भवन,
संसार चन्द्र रोड, जयपुर।

प्रार्थी की तरफ से : श्री आर. सी. जैन – प्रतिनिधि

अप्रार्थी की तरफ से : श्री राजेश शर्मा – एडवोकेट

: पंचाट :

दिनांक : 05.01.2017

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 10 उपधारा 1खण्ड (घ) के अन्तर्गत दिनांक 15.09.2006 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णयन हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :-
2. “Whether the of the management of Central Bank of India through Assistant General Manager, Jaipur in not giving the benifit of pension scheme to Sh. T.S. Mahawar, Clerk (Employment No.89721) is justified? If not, what relief the workman is entitled to?”
3. याचिका में दिये गये तथ्यों के अनुसार संक्षिप्ततः प्रार्थी का कथन है कि इस विवाद से सम्बन्धित श्रमिक श्री टी.एस.महावर की बैंक में नियुक्ति दिनांक 12.02.1994 को लिपिक के पद पर हुई थी। वर्तमान में श्री टी.एस.महावर विपक्षी बैंक की मेडता सिटी शाखा में कार्यरत है।
4. विपक्षी बैंक के कर्मचारियों के लिये बैंक ने वर्ष 1993 में एक पेंशन स्कीम जारी की थी और पेंशन रेगुलेशन 1993 जारी किये थे।
5. पेंशन रेगुलेशन 1993 के अनुसार पेंशन स्कीम उन सभी कर्मचारियों पर लागू की गई थी जिनकी नियुक्ति 01.11.1993 के पश्चात बैंक में हुई थी, इसलिये वे पेंशन स्कीम 1993 के अन्तर्गत पेंशन का लाभ प्राप्त करने के अधिकारी हैं।
6. प्रारम्भ में बैंक के अधिकारियों ने यह बताया कि दिनांक 01.11.1993 के पश्चात नियुक्ति कर्मचारियों को पेंशन हेतु आप्शन देने की आवश्यकता नहीं है। बाद में यह सुझाव दिया गया कि 01.11.1993 के पश्चात नियुक्ति कर्मचारियों को भी पेंशन आप्शन देना चाहिये।
7. इस आधार पर श्री टी.एस.महावर ने दिनांक 14.9.994 को पेंशन हेतु आप्शन फार्म भरकर प्रस्तुत कर दिया जिसे शाखा प्रबन्धक मेडता सिटी ने अपने पत्र क्रमांक बी.एम/94-95/34/201 दिनांक 16.02.1994 द्वारा क्षेत्रीय कार्यालय जयपुर को अग्रेसित कर दिया।
8. दिनांक 14.09.994 को पेंशन हेतु आप्शन प्रस्तुत कर देने के बावजूद अप्रार्थीगण द्वारा असंगत कारणों के आधार पर श्री महावर का पेंशन आप्शन स्वीकार नहीं किया जा रहा और उन्हें पी.एफ.ऑप्टी माना जा रहा है।
9. इस सम्बन्ध में अप्रार्थीगण द्वारा जो आपत्ति उठाई गई है उन सभी आपत्तियों का श्री महावर व शाखा प्रबन्धक मेडता सिटी द्वारा समुचित उत्तर देते हुये निराकरण कर दिया गया है लेकिन फिर भी श्री महावर का पेंशन आप्शन स्वीकार नहीं किया जा रहा है।
10. श्री टी.एस.महावर का पेंशन आप्शन, अन्य कोई राहत व मुकदमें का हर्जा-खर्चा जो उचित समझें उसे दिलाया जाय।
11. विपक्ष की तरफ से वादोत्तर प्रस्तुत कर यह कहा गया है कि याचिका में प्रस्तुत मद सं. 1 स्वीकार है परन्तु प्रार्थी मेडता सिटी शाखा से स्थानान्तरित होकर वर्तमान समय में जालोरी गेट जोधपुर में कार्यरत है।
12. मद सं. 2 के कथन अस्वीकार नहीं है परन्तु यहां यह कहना आवश्यक है कि प्रार्थी ने जानबुझकर यह कथन नहीं किये हैं कि वह पेंशन विनियमावली 1993 किस दिनांक से प्रभावशाली हुयी। यहां यह कहना भी आवश्यक है कि विपक्षी बैंक द्वारा कर्मचारी पेंशन विनियमावली 1995 जारी की गयी जो पूर्ण कानूनी प्रक्रिया अपनाने के उपरान्त 29.9.95 को अन्तिम तौर पर प्रभाव में लाये जाने हेतु बनायी गयी और इनका प्रकाशन दिनांक 29.9.1995 को किया गया अर्थात् कर्मचारी पेंशन विनियमावली 1995 दिनांक 29.9.1995 को प्रभावशील हुयी। सम्बन्धित विनियमावली जवाब के साथ संलग्न है।

13. मद सं. 3 के कथन आधारहीन एवं गलत है अतः अस्वीकार है। यदि प्रार्थी श्री टी.एस.महावर 1995 के कर्मचारी पेंशन विनियमावली में अपना आप्शन लेते तो अवश्य ही उनका प्रस्ताव प्रबन्धन स्वीकार करता और उन्हें पेंशन के लाभ का अधिकारी माना जा सकता था।
14. मद सं. 4 के कथन जिस प्रकार वर्णित किये गये हैं, गलत है अतः अस्वीकार है। प्रार्थी ने इस मद में अपने कथनों का कोई खुलासा नहीं किया है अतः कथन गलत है।
15. मद सं. 5 के कथन रिकार्ड से सम्बन्धित है परन्तु प्रार्थी के कथन 1995 से प्रभावशील कर्मचारी पेंशन विनियमावली के विपरीत है, अतः अस्वीकार है।
16. मद सं. 6 के कथन जिस प्रकार वर्णित किये गये हैं गलत है, अतः अस्वीकार है। अप्रार्थी प्रबन्धन एवं कर्मचारी नियमों से बाधित है और नियमों के विरुद्ध प्रार्थी को कोई लाभ नहीं दिया जा सकता है।
17. मद सं. 7 के कथन प्रार्थी ने बिना किसी आधार के वर्णित किये हैं सही तथ्य नियमों के सन्दर्भ में विपक्ष ने उपर वर्णित किये हैं, अतः प्रार्थी के आरोप व कथन गलत है और अस्वीकार है। विपक्ष ने प्रार्थना की है कि प्रार्थी की माँग आधारहीन मानकर निरस्त की जाय।
18. प्रारम्भिक आपत्ति में कहा गया है कि प्रार्थी की माँग एक व्यक्ति की माँग होने के कारण औद्योगिक विवाद अधिनियम की धारा 2 (के) के अन्तर्गत औद्योगिक विवाद की परिभाषा से आच्छादित नहीं है, अतः निरस्त होने योग्य है। यह भी कहा गया है कि प्रार्थी को पेंशन नियमावली 1995 के प्राविधान के विरुद्ध माँग उठाने का अधिकार नहीं था और यूनियन के पास भी इस माँग को उठाये जाने का कोई कारण नहीं था। प्रार्थी को पेंशन नियमावली के चेप्टर द्वितीय क्लॉज 3 (बी) के अन्तर्गत ऑप्शन का अधिकार था जिसका प्रयोग प्रार्थी द्वारा नहीं किया गया, अतः ऐसी स्थिति में प्रार्थी की याचिका स्वीकार होने योग्य नहीं है और इसी आधार पर विवाद को औद्योगिक विवाद की संज्ञा नहीं दी जा सकती है।
19. याची पक्ष द्वारा बहस की तिथि दिनांक 19.12.16 तक न कोई मौखिक साक्ष्य प्रस्तुत किया गया और न ही कोई प्रलेखीय साक्ष्य प्रस्तुत किया गया। विपक्ष की तरफ से प्रलेखीय साक्ष्य में सेन्ट्रल बैंक ऑफ इन्डिया कर्मचारी पेंशन नियमावली 1995 की फोटोप्रति प्रस्तुत की गयी है। विपक्ष की तरफ से कोई व्यक्ति मौखिक साक्ष्य में नहीं प्रस्तुत किया गया है।
20. मैंने विपक्षी के विद्वान अधिवक्ता की बहस सुनी तथा पत्रावली का सम्यक् अवलोकन किया। याची पक्ष की तरफ से बहस हेतु कोई उपस्थित नहीं आया।
21. विपक्ष के विद्वान प्रतिनिधि ने बहस की है कि याचिका के कथन को सिद्ध करने का भार याची पर है तथा याची की तरफ से कोई प्रलेखीय या मौखिक साक्ष्य नहीं प्रस्तुत किया गया है अतः याचिका केवल इसी आधार पर खारिज होने योग्य है। यह बहस भी की गयी है कि याचिका के अनुसार दिनांक 14.9.94 को याची ने अपना पेंशन आप्शन भरकर दिया जिसे ब्रान्च मैनेजर ने 16.9.94 को क्षेत्रीय कार्यालय जयपुर भेज दिया, जो विधिक रूप से स्वीकार किये जाने योग्य नहीं है क्योंकि पेंशन योजना 29.9.95 को लागू हुई है इसलिये 14.9.94 को ऑप्शन फार्म भरने का प्रश्न नहीं उठता है क्योंकि 29.9.95 के पूर्व बैंक द्वारा कोई ऑप्शन माँगे जाने का प्रश्न नहीं उठता है।
22. उल्लेखनीय है कि नियमावली के प्रस्तर 3 में पेंशन लागू होने के लिए विभिन्न श्रेणी के कर्मचारियों के लिए नियम बनाये गये हैं। प्रार्थी की नियुक्ति की तिथि दिनांक 12.2.1994 तथा पेंशन नियमावली के लागू होने की तिथि दिनांक 29.9.1995 को दृष्टिगत रख यह स्पष्ट है कि प्रार्थी के सन्दर्भ में नियम 3 अर्द्ध और 3 बद्ध प्रासंगिक है जो निम्नवत् है : -

Application :- These regulations shall apply to employees who -

3 (a) are in the service of the Bank before the notified date and continue to be in the service of the Bank on or after the notified date; and

(b) Exercise an option in writing one hundred and twenty days from the notified date to become member of the Fund;

(c) authorise the trust of the Provident Fund of the Bank to transfer the entire contribution of the Bank alongwith the interest accrued thereon to the credit of the Fund constituted for the purpose under Regulation 5:

उक्त प्राविधान से यह स्पष्ट है कि सम्बन्धित कर्मचारी द्वारा अपना आप्शन फार्म 29.9.95 के बाद की ही किसी तारीख में भरना है जो प्रार्थी द्वारा याचिका के कथनानुसार नहीं किया गया है। इस तथ्य को सिद्ध करने के भार याची पर है कि उसने दिनांक 29.9.95 के बाद की तिथि में अपना फार्म भरा है जो याची द्वारा नहीं किया गया है अतः मैं इस निष्कर्ष पर हूँ कि याची इस तथ्य को सिद्ध करने में असफल है कि सहायक महाप्रबन्धक, जयपुर के माध्यम से सेन्ट्रल बैंक ऑफ इन्डिया के प्रबन्धक द्वारा प्रार्थी श्री टी.एस.महावर नियोजन संख्या 89721 को पेंशन स्कीम का लाभ न देने का कृत्य न्याय संगत नहीं है। याची श्री टी.एस.महावर याचित अनुतोष पाने का हकदार नहीं है। याची की याचिका याचित अनुतोष हेतु खारिज होने योग्य है एवं तदनुसार खारिज की जाती है। माननीय मन्त्रालय द्वारा इस मामले में न्यायनिर्णयन हेतु प्रेषित रिफरेंस का उत्तर तदनुसार दिया जाता है। पंचात तदनुसार पारित किया जाता है।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 16 मार्च, 2017

का.आ. 778.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 30/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12012/162/2001-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 778.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 30/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 16.03.2017.

[No. L-12012/162/2001-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR**

Industrial Dispute No. 30 of 2001**Between :**

Sri P.K.Chauhan,
S/o Late A.S.Chauhan,
4/439, Anand Nagar, Shuklaganj,
UNNAO (UP)- 209801

And

The Regional Manager
Central Bank of India
117/H-1/240, Regional Office,
Pandu Nagar,
Kanpur(UP)-208005

AWARD

1. Central Government, Mol, vide notification no. L-12012/162/2001-IR(-II) dated 07/12/2001, has referred the following dispute for adjudication to this Tribunal.
2. Whether the disputant, Shr P.K.Chauhan, Assistant Manager / sub Accountant belonging to Junior Management Grade Scale-I in the Central Bank of India is a workman as defined under section 2(s) of the I.D. Act 1947? If so whether the action of Regional Manager, Central Bank of India, Kanpur in dismissal of the service of Sri P K Chauhan Ex-JMG-1 w.e.f. 22.05.99 on the charges of fraud is justified? If not, what relief the disputant is entitled to?
3. After receipt of reference order registered notices were issued to the parties connected with the dispute and both sides appeared and filed their authorities to represent the case. The representative for the worker sought several adjournments on one reason or the other for filing statement of claim on behalf of the workman.
4. Worker has filed claim statement and in reply management has filed written statement. After exchange of pleading parties have filed documents and preliminary issued regarding fair ness of enquiry was framed. During pendency of the case worker sri P.K.Chauhan has died and after his death his wife Smt. Nirmala Chauhan was impleaded as party in his place to contest the dispute.
5. Smt. Nirmala Chauhan has moved application A/1-2 stating her husband has filed this case and after his death she was impleaded as party in his place. As she is old lady and suffering from various deceases, she is not able to contest the present I D case and she has no interest in contesting the present dispute and she wants to not press proceeding of the case. Learned A.R. for management has endorsed no objection on it.

6. As Smt. Nirmala Chauhan wife of worker who is made party in this case after death of worker is not ready to contest the case on her personal grounds and requested to close the proceedings this tribunal has no option but to decide the case against the worker and to pass award accordingly.
7. Therefore the reference is decided against the worker and in favour of management.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 779.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 30/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12012/43/2016-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 779.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 30/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the management of Union Bank of India and their workmen, received by the Central Government on 16.03.2017.

[No. L-12012/43/2016-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT/LOK ADALAT, KANPUR

Industrial Dispute No. 30 of 2016

Between :

The General Secretary
Union Bank Employees Union (U.P.)
628/M-33, Murari Nagar, RSM Nagar P.O.,
Faizabad Road
Lucknow – 226016

And

The Field General Manager
Union Bank of India
Vibhuti Khand, Gomti Nagar
Lucknow

AWARD

1. Central Government, MoL, vide notification no.L-12012/43/2016-IR(B-II) dated 28.06.2016, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Union Bank of India in imposing punishment of stoppage of two annual increments with cumulative effect on Shri Vivek Singh is just, fair & legal? If not, to what relief the concerned workman is entitled to?
3. In the instant case a reference was referred to Central Government Industrial Tribunal cum Labor Court, Kanpur, whereupon notice to the claimant was issued under registered post by CGIT Kanpur for filing his claim in the case.
4. On 30.01.17, when the case was taken up neither the worker turned up nor filed his claim statement despite availing of sufficient opportunities. Therefore, it appears that the worker is not interested in prosecuting his claim

before this tribunal. As such having no option left with the except to give an award in the case against the worker for want of pleadings and proof.

5. For the reasons given above, award is passed against the worker holding that the worker is not entitled to any relief pursuant to the present reference order for want of pleadings and proof.

6. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 780.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 104/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.03.2017 को प्राप्त हुआ था।

[सं. एल-12011/109/2005-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 16th March, 2017

S.O. 780.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 104/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 16.03.2017.

[No. L-12011/109/2005-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 20th February, 2017

Reference: (CGITA) No. 104/2005

The General Manager,
Syndicate Bank,
Regional Office,
Ahmedabad (Gujarat)

...First Party

V/s

The General Secretary,
Syndicate Bank Employees Union,
C/o Gujarat Bank Employees Union,
Rahbar, 8, Jagnath Plot,
Rajkot (Gujarat) – 360001

...Second Party

For the First Party : Shri P.S. Chari

For the Second Party : Shri Y.N. Pandya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/109/2005-IR(B-II), dated 31.10.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the department of Syndicate Bank in imposing the punishment of compulsory retirement from service on Smt. Vinita B. Shah, Ex. Spl. Asstt. is legal and justified? If not to what relief the concerned workman is entitled to?”

1. The reference dates back to 31.10.2005. The second party workman filed the statement of claim Ex. 5 on 18.12.2006/25.01.2007 along with number of documents vide list Ex. 6. The first party submitted the vakalatpatra Ex. 7 along with written statement Ex. 8 on 31.07.2007 and also submitted the number of documents vide list Ex. 13 on 26.02.2016. Since then the second party workman has been absent and failed to lead evidence. On 19.01.2017, the junior advocate Shri Bharat R. Mali to Shri Y.N. Pandya, advocate for second party workman took notice of the case and sought last opportunity for leading evidence, therefore, the case was listed for 16.02.2017 for leading evidence by second party as last opportunity but again on 16.02.2017, neither the second party workman appeared nor his advocate Y.N. Pandya or his junior Bharat R. Mali responded to lead evidence on behalf of the second party workman. Thus it appears that the second party workman has not been willing to prosecute the case.

2. Therefore, the tribunal has no alternative but to dispose of the reference in non-prosecution of the case by the second party with the observation as under: “the action of the department of Syndicate Bank in imposing the punishment of compulsory retirement from service on Smt. Vinita B. Shah, Ex. Spl. Asstt. is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 781.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 112/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 781.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 112/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD**

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 18th day of November, 2016

INDUSTRIAL DISPUTE L.C.No. 112/2009

Between:

Sri S. Odelu,
S/o Odelu,
Flat No.337, Bhupalpally,
Subhash Colony,
Bhupalpally (V) & (M), Warangal District

...Petitioner

AND

1. The Chairman-cum-Managing Director (P.A. & W),
M/s. Singareni Collieries Company Ltd.,
(A Government company)

2. The Chief General Manager (Personnel),
M/s. Singareni Collieries Company Ltd.,
Bhupalpally, Warangal District.
 3. The Deputy General Manager,
M/s. Singareni Collieries Company Ltd.,
KTK-I Incline,
Bhupalpally, Warangal District
 4. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bhupalpally, Warangal District
- ...Respondents

Appearances:

For the Petitioner : M/s. G. Vidya Sagar, K. Udayasree, P. Sudheer Rao & D. Madhusudhan, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

This is a petition filed under Sec.2A(2) of the Industrial Disputes Act, 1947 by Sri S. Odelu, the workman, who worked as Haulage Operator(Surface) at KTK-I & IA Incline, M/s. Singareni Collieries Company Ltd., Bhupalpally against the management for his reinstatement into the service of the management with full back wages and other relevant benefits or consequential benefits, after setting aside his termination.

2. The case of the Petitioner is that he was appointed in the Respondent company on 23.9.1985 as Badli Filler at Goleti-I Incline, Bellampally and he was promoted as Coal Filler vide proceeding dated 16.10.1987. Again, the Respondent company issued proceedings dated 14.3.1988 confirming as Petitioner's services as a Coal Filler and his name was figured in the said proceedings at Sl.No.7., his services were promoted as Haulage Operator (UG), IV category with the pay scale of Rs.42.18-1.32-60.65, Petitioner's name was figured at Sl.No.2 in the said order and posted him to KK-I and IA incline, Bhupalpally RG-4. Thereafter, the Respondent company has issued office order dated 1.9.2002 redesignated the Petitioner's services as Haulage Operator (Surface) at same place and Petitioner has been discharging his duties to the entire satisfaction of his superiors. While so, he was issued with a chargesheet dated 12.6.2006 alleging certain irregularities. The enquiry was biasedly conducted on the basis of charge sheet without giving any opportunity to the Petitioner. The Enquiry Officer on the basis of lop sided enquiry erroneously held the charges as proved against him. On the basis of erroneous findings of the Enquiry Officer, the Petitioner was dismissed from his service as per the office order dated 20.11.2006. As such, the dismissal order passed against the Petitioner is entirely illegal, arbitrary, violative of principles of natural justice.

3. The case of the Respondent as stated in their counter statement is that their company operates some mines, of which the Central Government is the appropriate Government. In accordance with the averments of the Petitioner, admittedly the Petitioner was appointed on 25.9.1985. In fact the charge sheet dated 12.6.2006 was issued to the Petitioner for his misconducts under the company's Standing Order Nos. 25.4, 25.19, 25.20 and 25.23. The Petitioner has submitted his explanation. Later, an enquiry was initiated. The Petitioner has fully participated in the enquiry, in which he was given full and fair opportunity for his deeds/grievance. The Enquiry Officer held the charges levelled against the Petitioner as proved. As such, the Respondent company was constrained to dismiss the Petitioner for misconducts committed by him under the company's Standing Order Nos. 25.4, 25.19, 25.20 and 25.23.

4. In the instant case, as per order dated 23.9.2011, the validity of the domestic enquiry was held as legal and valid.

5. During the midst of hearing of the case at the consent of both the parties, the present case is placed before the Chairman, Lok Adalat Bench on 18th day of November, 2016. Wherein a settlement was arrived between the parties. The Respondent management has been directed to take back the Petitioner workman to duty as Badli Worker (Underground) afresh. In agreement of the above, the Parties/counsel have affixed their signatures/thumb impressions in presence of the members of the Lok Adalat Bench and the order so passed has been annexed to this award as it is.

7. In view of the settlement arrived before Lok Adalat Bench, a no dispute award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Sri J. Vijaya Sarathi, Secretary to the Court and corrected by me on this the 18th day of November, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 782.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 73/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/53/4-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 782.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 15.03.2017.

[No. L-22012/53/4-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/73/2014**

Shri Badlu Alias Shankar,
S/o Ganna Singh
C/o Bimal Kirana, Shobhapur Colony,
Kailash Nagar, PO Pathakhera,
Tehsil & Distt. Betul (MP)

...Workman

Versus

General Manager,
WCL, Satpura Mine No.2,
Pathakhera Area,
Tehsil & Distt Betul (MP)

...Management

AWARDPassed on this 17th day of February 2017

1. As per letter dated 14-8-14 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/53/4-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Western Coalfields Limited, Pathakhera Distt. Betul in dismissing the services of workman Shri Badlu Alias Shankar S/o Shri Ganna Singh w.e.f. 24-4-05 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Despite repeated efforts, workman could not be served with notice. Even effort was made to serve notice to District Judge, Betul vide letter dated 25-4-16. No response is received. Workman is proceeded exparte on 31-8-16.

3. 2nd party management filed exparte Written Statement as well as affidavit of evidence. 2nd party has contented that workman has not appeared in the matter and filed statement of claim. That 2nd party had offered employment to Badlu who reported for duty on 26-10-79. Form B register was maintained under Mines Act. Workman was working as Dresser at Dresser at Satpura Mine No.2 of WCL, PKD Area. The complaint was received that name of Ist party workman was Shankar, s/o Ganna Gond, R/o Koalgaon. He was working with the management in name of Badlu, S/o Ganna Singh. The real Badlu is the sarpanch of Koalgaon village for the last several years Shri Shankar is brother of Badlu. Chargesheet was issued to workman on 21-11-2001. Shri O.P.Yadav was appointed as Enquiry Officer, Anjani Kumar was appointed as Management Representative. Enquiry was conducted on various dates. After recording evidence of management's witnesses, Enquiry Officer submitted his findings holding that the charge against workman was proved. Enquiry was conducted following principles of natural justice. After issuing showcause notice dated 5-1-05, punishment of dismissal was imposed against workman.

4. Affidavit is filed by management's witness Shri Nikhil Nimje supporting whole contentions in statement of claim. Zerox copy of document of enquiry is produced.

5. As workman has not participated in reference proceeding and has been proceeded exparte, I find no reason to disbelieve evidence of management's witness. For above reasons, I hold action of management is legal. Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 783.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 83/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/40/97-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 783.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 83/98) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 15.03.2017.

[No. L-22012/40/97-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/83/98

General Secretary,
SKMS (AITUC) ,
Post Chandametta,
Distt. Chhindwara

...Workman/Union

Versus

The Manager,
Tandsi Project, WCL,
Post Rampur, Damua,
Distt. Chhindwara

...Management

AWARD

Passed on this 17th day of February 2017

1. As per letter dated 24-4-98 & corrigendum dated 11-8-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/40/97-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Tandsi Project of WCL, Kanhan Area, Post Office Rampur, Village Damua, Distt. Chhindwara in terminating the services of Shri Dadulal and 350 other stone cutters instead of regularizing their services is legal and justified? If not, to what relief they are entitled?”

2. After receiving reference, notices were issued to the parties. Order of reference dated 24-4-98 was amended by corrigendum dated 11-8-05 pertaining to legality of termination of services of Daddulal and 350 others instead of regularizing their services is legal.

3. Statement of claim is filed on behalf of Ist party by the Union. Case of Ist party Union is that it has membership in Kanhan Area of WCL. The Union safeguards interest and welfare of working class of coal industry. That WCL is Government of India undertaking. It is required to act in just, fair and reasonable manner and deal with working class. It is declared policy of Government to give employment and look after welfare of the industry. It is alleged contrary to the declared Government policy, WCL, Kanhan Area has acted in a most illegal manner in not paying wages and terminate services of Daddulal and others. That names of claimants, father's name, age and other particulars are mentioned in the list. That there were more than 600 coal mines in India owned by private collieries. There was complete unfair labour practice by the management. Central Government therefore constituted a Central Wage Board for the coal mining industry for deciding the service conditions. That coal wage Board was to consider and recommend the service conditions and wage construction of all persons employed in the mine while directing or through contractors. The Wage Board Recommendations were accepted by the coal industry.

4. That coal industry was subsequently nationalized. The wage structure were revised by various NCWA and the wages of all employees were fixed by such agreement. That Ist party claimant Daddulal and 350 others name shown in Annexure A were employed by WCL in Tandsi Project, Kanhan Area from 17-10-92 for stone cutting, earth cutting etc. The claimants were working in underground. All the persons were employed in mine. Their service conditions are covered by Board NCWA. The claimants are in Group IV and were entitled to wages of Group IV since beginning. The claimants were employed under direct supervision and control of WCL. Their working was supervised by Manager, Assistant Manager, Under Manager, Mining Sirdar, overman etc. that management is claiming that said work has been given to MECL on contract basis is incorrect. The contract work is specifically prohibited in earth cutting, stone cutting and other connected jobs in coal mines as per notification issued in 1975. Even otherwise the work is of permanent nature and coal mines have employed permanent worker for such work in colliery whenever mine is open. The work can only be given to regular employee. That management not obtained registration nor MECL had taken contract. Management did not have any agreement with MECL. If such agreement is there, it is null and void. That all claimants are employees of WCL. It is further contended that management was bound to give Group IV wages to the claimants. The same was denied without justification. Management is liable to Group IV wages with interest to all the claimants by WCL.

5. Ist party further submitted that 350 claimants were employed by WCL. WCL being a state in terminating service of employees only by order in writing by Competent Authority. No order of terminating services of claimant has been issued. Therefore they are deemed in service and entitled to wages. Claimant workman were employed for unlimited period in regular vacancy on permanent post. They have completed more than 3 months service. Therefore they are deemed to be permanent workman. Their services could be terminated without following laid down procedure in standing order. The claimant workman were not served with notice of letter of termination. There was no termination of their services. That management has provided employment given to the persons who work for few days as casual employees. Management of WCL employed them. Work of earth cutting, stone cutting is done by permanent employees of WCL.

6. Ist party further contends that by Agreement dated 17-7-84, 243 persons worked for few days as casual were provided employment. By arbitration award by Shri S.D.Pandey, 334 persons were provided employment. It is practice and procedure of the company to provide regular employment given through artificial contractor. The Union has taken up case for giving regular employment to claimants. Management deliberately refused to give employment to them only on political provisions as the workers represented by Union. When the workers were represented by INTUC, BMS Union, employment was provided even if the present work for few days as casuals. Act of the management is discriminatory, unfair. Government adopted unreasonable attitude not referring the matter. The ratio held in AIR-1989-SC-1565 has been referred contending that all the claimants are entitled to regular employment. Their oral termination of the services of claimants from 10-12-95 is illegal. The claimants be deemed in service orally stopping claimants from work is violative of Section 25-F, G, H, N of ID Act. It amounts to retrenchment. No

permission for retrenchment was taken by 2nd party therefore it is void up initio. That management has provided employment to about 40,000 persons as per press statement. Union members were not given employment despite they had preference in employment., management is continuing to give employment. The claimants are kept out of employment without any justification. On such grounds, Ist party prays for reinstatement and regularization of all the claimants.

7. 2nd party filed Written Statement at Page 18/1 to 18/10 opposing claim of Ist party. 2nd party submits that the term of reference is patently illegal as the appropriate Government has gone into disputed questions of fact while making the reference. The reference is contrary to the dispute raised and submissions made by the management. The reference being incorrect is liable to be rejected. Order of reference shows Government decided employer employee relationship existing and there was a termination. This is factually incorrect. The claimants were never employed by the management of WCL for any period. They cannot be regularized. The claimants were not in employment of WCL. The reference is made mechanically without application of mind. It is further submitted that the particulars of the beneficiaries are not given for purpose of identification. The identification of claimants is disputed as per the list attached in statement of claim. The addresses of claimants are shown as address of Union. Individual's present address/permanent address is not given. Service particulars who engaged claimants, nature of job, period of deployment, particulars of wages are not given. The reference is vague. It is reiterated that reference is highly prejudicial to the management. Writ Petition No. 14081/05 was filed by management before Hon'ble High Court MP, Jabalpur. Hon'ble High Court clarified that the Tribunal shall also decide all the disputed questions raised by the parties before it.

8. 2nd party further submits that reference was raised claiming regular employment by Shri Arun Kumar Dixit and 74 others in R/197/98 and present reference raised by General Secretary of SKMS Union. The names of 21 claimants are identical as shown in Para-7 of the Written Statement. That even after application submitted by management. That contractor is necessary party. Without impleading contractor, claim under dispute cannot be decided against principal employer. It is contented that Ist party claimants who establish that they were engaged by contractor, their claim cannot be sustained. That claim by Ist party Union is fabricated. Coal India is registered under Indian Company's Act owned by Government of India having several subsidiaries like SECL, WCL, NCL etc. the wage structure of the employees are covered by NCWA. That appointment in CIL is covered by statutory rules and regulations. Person seeking employment in CIL has to undergo the procedure prescribed for regular appointment. Appointment to the lower cadre can be done through Employment Exchange. Claimants cannot violate constitutional right to employment of other persons. It is violative of Article 16(1) of the constitution. It is reiterated that persons who are engaged purely on temporary basis as stop gap arrangement without following procedure for permanent appointment. Recruitment in coal industry is prohibited by Government except on compassionate ground. Union raised present dispute for securing appointment to the claimants through back door entry is not permissible.

9. That management issued tender notice No.1 of 93-94 for execution of work of drivage of incline No.3,4 of Tandsi Project. The details of work under tender are given in Para 18 of Written Statement. Work was awarded to M/S Shanti Kumar Sancheti Engineers and contractors. The work order was issued to contractor on 8-2-94 for amount of Rs.10,18,43,000. Letter of intent was issued on 5-11-83. Agreement was executed between management and contractor on 8-2-94. The work completion certificate was issued on 23-3-96. The work awarded to contractor is not of prohibited category. Notification dated 21-6-88 issued by Government of India, Ministry of Labour. Said notification restricts and prohibits driving of stone in underground doesnot specifically or by implication prohibited driving of stone drifts on surface. In said notification, driving of stone drifts underground which could not be detected has been permitted. The work of driving of stone drift is of temporary nature and could be undertaken for winning coal. The work of WCL is not mining of stone but it has to make arrangement for mining of coal by removing obstacles. It is reiterated that the work under tender given to the contractor is not prohibited. The work awarded to contractor doesnot fall within prohibited category of Notification dated 1-2-75. The contractor had obtained the valid licence under CL(R&A)Act. The contractor engaged labours for execution of work. Labours engaged by contractor cannot claim employment with Principal Employer. Management of SECL had no control over the labours engaged by contractors. Management had no role about engagement and termination of services of labours engaged by contractor. The contractor was to follow labour legislations w.r.t. labours engaged by him as per the terms of agreements. The workers engaged by contractor were engaged for civil construction job. Provisions of Mines Act 1952 is not sham. There is no question of denial or depriving right of claimants. 2nd party further reiterates that claim of Union that workers are deemed as employees of WCL is incorrect. That notification dated 1-2-75 is amended on 26-6-88. The work carried out by contractor is of civil nature. The workers deployed by contractor are not covered by NCWA. It is reiterated that claimants were not engaged by WCL. NCWA is not applicable. It is admitted that contract was not given to MECL. The arbitration award by S.C.Pandey is not applicable to the case. It is denied that the management provides employment discriminating on political ground, the allegations are false. That management has not violated any law. The allegations are made by claimants for serving employment through backdoor which is not permissible. On such ground, 2nd party submits that claim of Ist party is not tenable. Reference is bad. Union has no locus. Claim under reference be rejected.

10. Ist party filed rejoinder reiterating its contentions that this Tribunal has jurisdiction to decide claim for regularization. All adverse contentions made in the Written Statement have been denied. The contentions in Para 16 to 32, 34 to 50 have been denied.

11. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Tandsi Project of WCL, Kanhan Area, Post Office Rampur, Village Damua, Distt. Chhindwara in terminating the services of Shri Dadulal and 350 other stone cutters instead of regularizing their services is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Claimants are not entitled to any relief.

REASONS

12. As stated above, the order of reference was amended by issuing corrigendum. The term of reference pertains to termination of services of claimants instead of regularising their services. In statement of claim, claimants have claimed they were employed by WCL and management was claiming that the work was given to MECL on contract basis is incorrect. In Written Statement Para 10 onwards, it is stated that issuing tender notice No. 1/93-94, work was awarded to M/S Shanti Kumar Sancheti. Agreement was executed on 8-2-94. In rejoinder, 2nd party has outright denied the contentions. There is no pleading by Ist party that contract/ agreement between management and Shanti Kumar Sancheti is sham, bogus rather all claimants claims to be engaged by WCL and as such employees of WCL itself.

13. Affidavit of evidence are filed by Shri Chandrashekhar, Altab, Daddulal, Firoz. All the witnesses of Ist party have stated that they were working in Tandsi Project during 93 to 95. Work of stone drifting was taken from them. They were working in 3 shifts. Work of stone drifting was carried under directions of management. They were disengaged from work on 31-12-95. All the witnesses of Ist party claimants were acquainted with other claimants. Other claimants were working with them for project of stone drifting. They are unemployed after their disengagement from 31-12-95. Chandrashekhar in his cross says he was doing work of stone drifting. Management had given promotion. Management had taken back the letter of promotion from him. He denied to have given false evidence.

14. Altab in his cross says he has studied Vth standard. He was working in 3 shifts. His shifts were changed. He was doing work of drifting stone. He denied that 2nd party was only engaged in coal products and not in stone drifting work. He claims ignorance about contractor Sancheti. He was doing work of stone drifting underground. Appointment letter was not issued to him by the management. He did not remember. He denies that the work of stone drifting was given to the contractor. He denied that he was engaged by contractor. He was engaged on work by Mr. Subbarao. Since long, he had not seen Mr. Subbarao. For purpose of work in mine, form were filled by him. I card was given to him which was taken back. I card was with him for 5-6 days. He has not produced any documents in the case.

15. Daddulal in his cross denies that he was working under contractor. Before engaging him on work, appointment letter was not given to him. He carried work of drifting stone. He was not doing work of stone drifting under contractor. He did not remember who had engaged him on work. He claims ignorance whether any form is required to be filled before working in the mine. He denies that he did not work under the management.

16. Shri Firoz in his cross says he had not received appointment letter. He denies that he was not engaged by the management.

17. Affidavit of evidence of Shri Bhatwat Arse is filed but he has not appeared for his cross, his evidence cannot be considered.

18. Management filed affidavit of evidence of Shri Subbarao. His affidavit is devoted on the point he was Manager of Tandsi Project of WCL during 1988 to 1996. Claimants were not employed by the management. There was no employer employee relationship. That particulars of claimants are not given in the list annexed with order of reference. Their identification is not enough. That in coal India and its subsidiaries, appointment are covered by statutory rules and regulations. Appointment should be done through local Employment Exchange. Claimants were not appointed by Competent Authority, their names were not sponsored through Employment Exchange. In Para 10 of his affidavit, he has given details of common names of 21 claimants in R/197/98, 83/98. That as per tender notice No. 1/93-94, work of drivage of incline No.3,4 was given to contractor Shanti Kumar Sancheti. Particulars of work are to be executed are given in para 13 of the affidavit. That on completion of work, notice was displayed inviting objections pertaining to

non-payment of wages. No objection was received. That Tandsi Project was opened in 1986, Form B Register of employees were maintained. From evidence of management's witness Form B Register Exhibit M-9 are admitted in evidence. Management's witness in his cross says original Form B Register is in custody of Personal Officer. The zerox copy of Form B register was not obtained in his presence. He denies that zerox copies were not tallied with original Form B Register. He had tallied zerox copies randomly. All the zerox copies were not tallied with Form B Register. In his further cross, management's witness claims ignorance about claimants working in the production. He also claims ignorance who was making payments to claimants. Claimants were not employees of 2nd party. He was regularly inspecting mine during his tenure. During his posting, Shri S.B.Katiyal was not working as Personal Officer. In his further cross, management's witness was unable to tell the claimants were doing work of stone drifting in Tandsi Project during 93 to 95. He doesnot know whether claimants were working under contractor. Claimants were not engaged for work of stone drifting by management. Management's witness in his further cross admit that Form B Register is maintained w.r.t. employees engaged by contractor. The Form B Register of contractor's workers remained in custody of personal officer of contractor.

19. Documents produced by management Exhibit M-1 is intimation about publication in newspaper. M-2(a to e) are tender notice. Exhibit M-2 is tender notice No. 1 of 93-94, In M-3, the details of tender notice No. 1/93-94 are given. The work is shown drivage of incline shaft estimated value is 5.5 crore. The terms and conditions are annexed with it. Exhibit M-4 is the article of agreement. M-5 is letter of intend dated 5-11-93. The distribution of work is shown drivage of incline Shaft No.3,4. The details of the work to be executed. Exhibit M-6 is letter dated 8-2-94 issued to the contractor Shanti Kumar Sancheti details of work to be executed quantity, rates and amount is mentioned. Exhibit M-7 is completion certificate. The details of the work completed, period are mentioned. Exhibit M-8 is copy of M-7.

20. The claimants have not produced any document that they were engaged by WCL. Evidence of the witnesses of Ist party is silent about the contractor M/S Shanti Kumar Sancheti engaged, said contractor was sham and bogus. Evidence of management's witness is silent w.r.t. under whose supervision, they were working, who were making payments to them, who were giving instructions for their work. Any document about appointment and payment of wages is also not produced by the claimants. Management produced documents Exhibit M-1 to 8,. No suggestion is given to the management witness that the contractor was bogus or sham.

21. When the case was fixed for argument, learned counsel for Ist party Shri P.Yadav though present not submitted any argument.

22. Learned counsel for 2nd party Shri A.K.Shashi submitted copies of award in R/197/98, 60/2004 for my perusal. The dispute under reference needs to be decided considering the evidence adduced on record.

23. Shri A.K.Shashi submitted bunch of citation in case between

Oshiar Prasad and others versus Employers in relation to management of Sudamdih Coal Washery of BCCL, Dhanbad, Jharkhand reported in 2015-I-LLJ-513(SC), General Manager (OSD), Bengal Nagpur Cotton Mills, Rajnandgaon versus Bharat Lal and another reported in 2011(1)SCC-635. The ratio held in the case deals with absorption of contract labours and control, supervision etc. employee has to aver and prove that he was paid salary by principal and not by contractor. No such pleadings and evidence is found on record.

24. Reliance is also placed on ratio held in case between-

State of Himachal Pradesh versus Suresh Kumar Verma reported in 1996(2)SLR-321., Accounts Officer (A&I), APSRTC & ors versus KJ.V.Ramana and others reported in AIR-2007-SC-1166, Surendra Nagar District Panchayat versus Dahyabhai Amarsinh reported in 2005(8)SCC-750, State of Rajasthan versus Sarjeet Singh and another reported in 2007-I-LLJ-236, International Airport Authority of India versus International Air Cargo Workers Union and another reported inn 2009(13)SCC-374. The detailed discussion of ratio held in all those cases is not necessary as the evidence of Ist party about engagement of claimants by WCL is not supported by any documents. Evidence of witnesses of Ist party is silent about the contract between management of WCL & contractor Shanti Kumar Sancheti is sham, bogus or who was paying wages to them etc. Evidence of Ist party cannot establish that they were employees of WCL or their services were illegally terminated violating ID Act. Claimants have failed to establish that they were employees of WCL. Therefore their claim for regularization cannot be upheld. Contractor is not impleaded as party despite application submitted by management. Though clear averments made in statement of claim, in rejoinder, Ist party has not pleaded that the contract between management of WCL and contractor was sham and bogus. For above reasons, I record my finding in Point No.1 in Affirmative.

25. In the result, award is passed as under:-

- (1) The engagement or termination of the claimants/ workmen by management of WCL is not established.
- (2) Claimants are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 784.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 92/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/313/2002-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 784.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 92/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 15.03.2017.

[No. L-22012/313/2002-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/92/2003

Shri Bechanram S/o Shri Najaruram,
Sr.Clerk,
C/o Western Coalfields Ltd.,
PK.I Mine, Post Pathakhhera,
Distt. Betul (MP)

Workman

Versus

General Manager,
Western Coalfields Ltd.,
PO Pathakhhera,
Distt. Betul (MP)

Management

A W A R D

Passed on this 7th day of February 2017

1. As per letter dated 9-5-2003 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/313/2002-IR(CM-II). The dispute under reference relates to:

“Whether the action of the Western Coalfields Ltd., Pathakhhera in dismissing Shri Bechanram from services w.e.f. 25-3-2002 and not granting the consequential benefits is legal and justified? If not, to what relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 8/1 to 8/6. Case of workman is that he was employed as Sr.Clerk in WCL at Pathakhhera, Distt. Betul. He was initially employed as time keeper in 1964. Workman was dismissed from service while holding post of Sr.clerk. He claims his service record was excellent free from any stigma. That workman was associated with Union holding post of General Secretary of RKKMS, INTUC while workman was posted at PK-1 Mine of WCL. Chargesheet was served on him on 29-9-01 alleging misconduct that alongwith chargesheet, any document was not received by him pertaining to articles of charges. On 3-10-01, he had requested management of PK-1 Mine Pathakhhera to supply copies of articles pertaining to the charges to enable him to prepare his defence. However his request was not considered. He was forged to submit reply. Workman had denied charges against him. He had alleged the action of management was malafide on instigation of certain unwanted persons.

3. Ist party workman further submits one Anil Garg President of Pathakhhera was declared personal non-grata by administration. Ist party workman was having family relations with Anil Garg and used to visit his house. Management

of WCL was annoyed by it. The workman was directed not to visit house of Anil Garg who is lawyer at Betul. Writ Petition 3946/98 was filed by Anil Garg vide order dated 5-8-02. The order declaring Anil Garg Person on non-grata was set aside. Management of WCL was not happy with decision and orders passed by Hon'ble High Court. Management decided to hold enquiry against workman. Enquiry was only paper arrangement. Management had decided to dismiss him from service. Chargesheet was issued on 29-1-01. Enquiry commenced on 20-11-01 and concluded on 4-3-02. Enquiry Officer and Disciplinary Authority did not provide him copies of articles of charges and documents despite his request. Meanwhile workman fell seriously ill and requested to adjourn enquiry. He also wanted further expert treatment. He was admitted in medical college hospital, Nagpur and not attend Enquiry Proceeding on 6-12-01. He had not received notice of enquiry held on 29-1-01, 25-2-02. Public notice was not received by him. Enquiry was fixed on 2-3-02. On 7-3-03, he requested management to postpone enquiry. However the enquiry was proceeded exparte. Enquiry Officer Manoj submitted his findings on 4-3-02 holding workman guilty. It is reiterated that enquiry conducted against him without giving him proper opportunity is illegal. Findings of Enquiry Officer are perverse. There is no cogent evidence to support punishment against him. That without submitting Enquiry Report alongwith showcause notice, punishment of dismissal imposed against him is illegal. Order of dismissal order dated 25-3-02 was passed in casual manner. Enquiry is vitiated. Findings of Enquiry Officer are perverse. On such ground, workman prays for his reinstatement with backwages.

4. 2nd party management filed Written Statement opposing claim of workman. 2nd party submits that initially workman was appointed on 25-11-65 at Pathakhera mine No.1 of WCL. He was working as Sr. Clerk in said mine. Management had issued order dated 5-5-98 declaring Anil Garg as person non-grata for his involvement in antisocial activities. He was prohibiting from entering in premises of WCL. As per news item published in "Rohit Prakashan" chargesheet was issued to Ist party workman dated 29-9-0. The misconduct alleged against workman was under clause 26.3, 22, 35 of standing orders. Reply submitted by workman was found unsatisfactory. As per order dated 18-10-01, Shri G.C.Pandey personal Manager was appointed as Enquiry Officer. Manoj Mishra Survey Inspector was appointed as Management Representative. Enquiry was held on 20-11-01, 21-12-01, 29-1-01, 25-2-01. Memos of enquiry sent to workman were received unserved. After notice was issued in Daily Nav Bharat on 26-5-02, workman or his defence representative not appeared in Enquiry proceedings. Management Representative adduced evidence of witness Shri S.K.Mudafare, Ramkishore Pawar, Suresh Pandaya, Devdatt Vohra, Hariram Chouhan after enquiry was proceeded exparte. Enquiry Officer submitted his report holding workman guilty. The findings of Enquiry Officer were issued alongwith showcause notice dated 7-3-02 to workman. Showcause notice was issued by RPAD. Envelope was received back undelivered. As per order dated 25-3-02, workman was dismissed from service.

5. Workman had filed Writ Petition 1247/03 before Hon'ble MP High Court contending his appeal was not decided by the management. Hon'ble High Court directed management to consider his appeal and pass the order. The Appellate Authority considering the facts and circumstances gravity of misconduct committed by workman dismissed appeal vide order dated 17-2-02. Workman was involved in anti management activities, disobedience of lawful orders, creating problems in business of the management. 2nd party has reiterated that despite of repeated notices issued to Ist party workman, he remained absent, enquiry was proceeded exparte.

6. Considering findings of Enquiry Officer and charges proved against workman, punishment of dismissal was imposed. Enquiry was conducted following principles of natural justice. It is denied that findings of Enquiry Officer are perverse. On such ground, 2nd party management reiterates that claim of workman be rejected.

7. As per order dated 24-10-13, enquiry conducted against Ist party was found proper and legal.

8. Considering pleadings between parties and orders on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the misconduct alleged against workman are proved from evidence in Enquiry proceedings?	In Negative
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

9. Vide order dated 24-10-13, enquiry conducted against workman is found legal and proper. In view of my finding that enquiry conducted against workman is legal, question remains for consideration is whether charges alleged

against workman are proved from evidence in Enquiry Proceedings. Charges alleged against workman pertain to disobeying orders of superior authorities under Clause 26.30 committing act of indiscipline, clause 26.22 disclosing confidential information by employees of company under clause 26.36. the substance of allegation against workman was that Shri Anil Garg who was declared as person non-grata i.e. person unwanted in the premises of the 2nd party was prohibited from entering the premises. In Enquiry Proceedings, statements of management's representative Shri S.K.Mudafare, Ramkishore Pawar, Suresh Pandaya, Devdatt Vohra, Hariram Chouhan were recorded on the point that Ist party workman CSE was in contact with Anil Garg and used to hold meeting with him at his residence engaged in activities against the company. The order declaring Anil person non-grata is set-aside by Hon'ble High Court in Writ Petition No. 3946/98 vide order dated 5-8-02, copy produced at Exhibit W-3. In para 14 of the judgment, their Lordship observed respondents have no right to change the moment of petitioner i.e. Anil Garg at public places. The respondents can restrict only in their office and actual work place where treatment is required. The very basis for the charges alleged against workman has been set-aside by Hon'ble High Court in W.P.No.3946/98. Therefore the charge against workman cannot be said proved.

10. At this stage, learned counsel for 2nd party Shri A.K.Shashi submitted application under Rule-15 requesting permission to lead evidence on other issues. The record shows after DE against workman was held proper and legal vide order dated 24-10-3, evidence of workman on other issues was closed on 13-8-14. Shri A.K.shashi for management submitted not to adduce evidence on other issues. Case was repeatedly fixed for argument from 18-11-14 to 2-2-17. The application is not justified. For reasons discussed above, I record my finding in Point No1 in Negative.

11. Point No.2- In view of my finding in Point No.1, misconduct alleged against workman are not proved. Question remains for consideration whether Ist party workman is entitled for reinstatement with backwages. Ist party workman has not adduced evidence in the reference. There is absolutely no evidence whether after dismissal of Ist party workman, he was in gainful employment. Normally when workman is dismissed and charges are not proved, reinstatement with backwages needs to be allowed. As workman has not participated in reference proceeding, there is absolutely no evidence about his unemployment after dismissal from service. Considering those aspects, reinstatement of Ist party with 25 % backwages would be appropriate. Accordingly I record my finding in Point No.2.

12. In the result, award is passed as under:-

- (1) The action of the Western Coalfields Ltd., Pathakhera in dismissing Shri Bechanram from services w.e.f. 25-3-2002 and not granting the consequential benefits is not legal and proper.
- (2) Dismissal of workman is set-aside. 2nd party is directed to reinstate workman with continuity of service with 25 % backwages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 785.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 28/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/9/2014-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 785.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 15.03.2017.

[No. L-22012/9/2014-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/28/2014

Joint Mahamantri,
Rashtriya Koyala Khadan Mazdoor Sangh (INTUC),
Shramik Shakti Bhawan,
PO Chandametta,
Chhindwara

...Workman/Union

Versus

Chief General Manager,
Western Coalfields Limited,
Kanhana Area, PO Dungaria,
Tehsil Junnardev,
Chhindwara

...Management

A W A R DPassed on this 17th day of February 2017

1. As per letter dated 27-3-14 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/9/2014-IR(C-II). The dispute under reference relates to:

“Whether the action of the General Manager, WCL, Kanhana Area, Dungaria, Distt. Chhindwara in not paying half Daily Allowance since July 2012 as per Rule 11.2.2 of Regulation of Daily Allowance applicable in WCL to Shri Mohd. Yakub S/o Mohd. Usman- Driver, Sher Mohd. S/o Sher Amjad- Driver, Smt. Dasharibai S/o Sukku and Smt.Jheeni bai w/o Suresh is proper and legal? If not, to what relief the concerned workmen are entitled to?”

2. After receiving reference, notices were issued to the parties. Despite notice dated 30-3-14, 6-4-15, 29-12-15, 21-7-6, 18-10-16, Ist party workman failed to appear. Ist party workman was proceeded exparte in the reference as per order dated 24-11-16.

3. 2nd party management filed exparte Written Statement as well as evidence on affidavit. In exparte Written Statement filed by management of 2nd party, it is contented that the relief claimed by Union under Rule 11.2.2 of Regulation of Daily Allowance, the claimants are not entitled to such allowance. Union has misunderstood and misinterpreted said regulation resulting in present dispute. That the Drivers and conductors of the school bus are divided into two shifts. Their duty hours are 8 hours in a shift. The Drivers and Conductors deployed in school bus are required to report for duty by 6 AM and leave with bus by 6.30 AM from Nandan by collecting the students from Damua, Ghorawari, Dungaria and Sukri and to reach Chandametta around 8.15 to 8.30 AM. The said bus leave the school premises alongwith small children/ students around 12 pm reach Dungaria by 12.40 to 1.00 PM. The 2nd shift second staff drivers/ conductor board the bus by at Dungaria. The first shift staff driver/ conductor receive Nandan by 2 pm. Accordingly the first shift staff are deployed from 6 am to 2 pm. The 2nd shift conductor/ cleaner conductor put their attendance by 12 pm reach Dungaria by 1 pm. They leave for Chandametta to bring the children. The second shift bus leave Chandametta by 2.30 pm to 3 pm reach back by 5.00 to 5.30 pm after leaving the children/ students. Thereby the 2nd shift staff also deployed for 8 hours duty. 2nd party submits that claimants are not entitled to allowances as per the regulation.

4. 2nd party filed affidavit of evidence of Shri R.S.Pawar supporting above contentions in Written Statement filed by management.

5. Ist party have not participated in reference proceeding. For above reasons, I hold that action of management is proper and legal.

6. In the result, award is passed as under:-

- (1) The action of the General Manager, WCL, Kanhana Area, Dungaria, Distt. Chhindwara in not paying half Daily Allowance since July 2012 as per Rule 11.2.2 of Regulation of Daily Allowance applicable in WCL to Shri Mohd. Yakub S/o Mohd. Usman- Driver, Sher Mohd. S/o Sher Amjad- Driver, Smt. Dasharibai S/o Sukku and Smt.Jheeni bai w/o Suresh is legal and proper.
- (2) Workmen are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 786.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 93/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/188/2002-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 786.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 93/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of South Eastern Coalfields Limited and their workmen, received by the Central Government on 15.03.2017.

[No. L-22012/188/2002-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/93/2003

Secretary,
Bhartiya Khadan Mazdoor Sangh,
PO Haldibadi,
Distt. Korea (Chhattisgarh)

...Workman/Union

Versus

Chief General Manager,
Chirimiri Area of SECL,
PO Chirimiri, Distt. Korea,
Korea, Chhattisgarh

...Management

A W A R D

Passed on this 15th day of February 2017

1. As per letter dated 9-5-2003 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/188/2002-IR(CM-II). The dispute under reference relates to:

“Whether the demand of Shri Jai Prakash Sharma, E&M Helper, Category II at Chirimiri Colliery of SECL (represented by Bhartiya Khadan Mazdoor Sangh) for regularization as Turner Category-V with retrospective effect i.e. since 1996 is legal and justified? If yes, to what relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 6/1 to 6/4 on behalf of workman Jai Prakash Sharma. The case of Ist party is that workman was appointed as Trade Apprentice in 1991. After completion of apprenticeship, he was observed as Mazdoor Category I vide order dated 9-7-92. Workman was promoted as E&M Helper Category II w.e.f. 1-4-96 order dated 24-4-96. Since very beginning of absorption of workman as Category -I mazdoor, he was engaged to work as Turner. Since 1996, workman was continuously performing work of turner efficiently. He was paid acting allowance of turner Category V regularly. It is further submitted that because of his regular appointment in work of turner since date of his appointment and his designation as E&M Helper is out of scope of cadre scheme. That several representations were submitted by workman in his personal capacity, through Union claiming regularization on post of Turner category V but there was no response from the management. Union taken up the matter with the management in a meeting dated 2-11-96 for discussion no conclusion was reached. The matter was also taken for discussion in meeting dated 20-11-98, 4-2-99. Strike notice was given dated 5-2-99 pursuing demand for regularization to workman Jai Prakash on behalf of Turner Category V. during discussion held on 17-3-99, management had undertaken to regularize workman in post of Turner Category V within 2-3 months. However said promise was not acted by the management. Union had given letter dated

8-9-00 pursuing the demand for regularization of Ist party workman. As the claim was not settled, dispute was raised and reference has been made. Ist party Union prays that workman Jaiprakash be regularized on behalf of Turner Category V since 1996.

3. Management filed Written Statement opposing claim of workman. 2nd party management contends that it is registered under Company's Act. The service conditions of the employees in coal industry are covered by NCWA. Cadre scheme is formulated in the matter for promotional channels for each cadre. Decision of JBCCI are followed by Implementation instructions. The promotional channel of E&M Helper to Turner is circulated by II No.30 dated 26-6-84. For promotion, minimum qualifications, eligibility etc. as provided. Claimant workman as initially appointed as Trade Apprentice on 17-9-90. After one year apprentice, he was absorbed as Mazdoor Category I vide order dated 9-7-92. Service Book of claimant workman is maintained as per recommendations of DP. The claimant workman was promoted to the post of E&M Helper Category II from 1-4-96. He was also promoted to Turner, Category IV. On 26-1-2006, claimant workman was promoted from Turner Category V to Turner Category VI. The matter was discussed with the Union for redressing the claim by Union. 2nd party submits that promotions are governed by cadre scheme. Workman was given opportunity to learn work of turner for gathering experience competing for promotion. Because the complainant workman was given opportunity to learn the work of turner doesnot give him right for regularization, claimant is not entitled for any relief. 2nd party submits workman has no right for regularization. The claim of workman be rejected.

4. Ist party Union filed rejoinder at Page 8/1 to 8/2 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of Shri Jai Prakash Sharma, E&M Helper, Category II at Chirimiri Colliery of SECL (represented by Bhartiya Khadan Mazdoor Sangh) for regularization as Turner Category-V with retrospective effect i.e. since 1996 is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. The term of reference pertains to legality of demand of Union for regularization of claimant Jai Prakash Sharma on post of Turner Category-V. claimant workman filed affidavit of his evidence supporting contentions in statement of claim. That he was appointed as trade apprentice in 1991. He was absorbed in Category I mazdoor on 9-7-92. Since day of his absorption, he was performing work of turner. He was paid acting allowance of Turner Category V and relies copies of pay slips. His representation for regularization on post of Turner Category V were not considered though he was paid acting allowance, management informed Union that they had promoted all workers who were acting on higher post in July 1995, remaining workers would be promoted on the basis of vacancy. In his cross-examination, he says his affidavit is in English. He is not aware of whole of its contents. Claim is raised by him for seniority for 1996, dispute raised in 2001. The promotions are given under cadre scheme, cadre scheme for different categories are introduced. He is not aware which cadre scheme is applicable to him. He was appointed as apprentice in 1990. He was absorbed as General Mazdoor in 1992. On recommendation of DPC, he was promoted as E&M Cat-II in 1996. He was promoted to Electrical Category IV. In 2006, he was promoted to E&M Category VI. E&M Turner can be promoted to the post of turner. Seniority and promotions are different. After his re-examination documents Exhibit W-1 to W-9 copies of representations are admitted in evidence. His cross examination is devoted on the point that he had submitted Exhibit W-2 to the management. Exhibit W-43,5 were handed over by him to dispatch clerk.

7. The evidence of management's witness Shri B.M.Rao on the affidavit supports the contentions of the management in Written Statement. That claimant workman was promoted on recommendations of DPC as per the cadre scheme. Witness of management remained absent for cross examination, as such his evidence could not be considered.

8. Management's witness Harendra Singh filed affidavit of his evidence supporting contentions in Written Statement filed by the management. From his evidence, documents Exhibit M-3 to M-7 are admitted in evidence. Management's witness in his cross says claimant was working as turner Category V. he also admits that workman was promoted to the post of Turner Cat-V in 2003. Order is not produced on record. Entry is taken in service book. Prior to promotion of claimant in Category V, he was paid acting allowance. Management's witness was shown willingness to

produce documents relating to payment of acting allowance. Witness of management admitted that amount of acting allowance was paid to workman as he worked in Turner Category V. he has no personal information. Workman worked as turner since 1992. He admits as per demand of Union, workman was paid acting allowance from 1996.

9. Documents produced by claimant workman Exhibit W-1 pay slip, Exhibit W-2 to 5 are representations submitted pursuing permission to the post of turner Category V. Exhibit W-6 is copy of discussion between Union and management dated 14-11-96. Exhibit W-8 is notice for strike. Exhibit W-10 is letter dated 31-8-95 sent by the management informing that the workers working on higher post were promoted in July 1995. The promotions to the employees acting in 1996 would be given on available vacancies.

10. The documents produced by management Exhibit M-3 is cadre scheme, eligibility prescribed for post of Turner Category V is literate, skills is required in wage board and trade test specifications, 4 years experience as helper in Category II, 2 years experience in case of ITI and Matriculate as Trainee Helper in Cat-II, the mode of promotion is on recommendation by DPC. Exhibit M-4 is appointment letter of claimant workman as apprentice, Exhibit M-1 is order dated 9-7-92 absorbing claimant workman as Mazdoor Category I. Exhibit M-2 is copy of service book, M-5 is office order dated 24-4-99 workman was absorbed as E&M Helper Category II. Exhibit M-6 is order dated 16-4-96. Workman was promoted as Turner Helper Category II. Exhibit M-7 is order dated 26-1-06 claimant workman was promoted to Turner Category-V. The mode of promotion to the post of Turner Category V is on recommendation by DPC. Claimant workman was not recommended by DP in 1996. The claimant is promoted to the post of Turner Category V in 2006 on recommendation of DP. The evidence on record clearly shows that for working as Turner Category V, acting allowance was paid to the workman. Merely performing the work of Category V does not give claimant right for promotion to said post. For above reasons, demand of Union for regularizing claimant Jai Prakash Sharma on post of Turner Category V from 1996 is not legal. Point No.1 is answered in Negative.

11. In the result, award is passed as under:—

- (1) The demand of Union for regularization of Shri Jai Prakash Sharma, E&M Helper, Category II at Chirimiri Colliery of SECL as Turner Category-V with retrospective effect i.e. since 1996 is not legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 787.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 92/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/41/2008-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 787.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 92/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of South Eastern Coalfields Limited and their workmen, received by the Central Government on 15.03.2017.

[No. L-22012/41/2008-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/92/2008

Shri Rajendra Prasad Shukla,
S/o Shri Umadatt Shukla,
Guard, J&K Area,
Annuppur

...Workman

Versus

Chief General Manager,
Jamuna & Kotma Area of SECL,
PO Jasmuna,
Annuppur (MP)

...Management

A W A R D

Passed on this 10th day of February 2017

1. As per letter dated 30-6-08 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No. L-22012/41/2008-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Jamuna & Kotma Area of SECL in dismissing Shri Rajendra Prasad Shukla from service w.e.f. 21-6-05 is legal and justified? To what relief is the claimant entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/7. Case of workman is that he was appointed as security guard in 1975 at SECL, J&K Area. He was residing in Qr. No. 524 double storied. Workman further submits on 29-3-05, he was out of station. Ramawati Kewat was in his quarter as a lady servant. Around 9.15 AM, Security Officer P.S.Gill entered in his house and tried to outrage the modesty of Smt. Kalavati. He committed heinous crime and escaped. When he returned to his house, Kalavati narrated said incident to him. Out of humanity, he helped Kalavati for lodging FIR to police filing complaint before Chief Judicial Magistrate. Said proceeding was progressive. He further submits that because of said incident, Shri Gill, Security Officer was annoyed as Ist party workman helped Kalavati. It is alleged that workman was malafidely implicated alleging assault in drunken condition on Gill as chargesheet was issued to workman on 31-3-05 alleging misconduct under clause 26.4, 26.18 of standing orders of SECL. That he was not on duty on the day of alleged incident. That enquiry was conducted against him and punishment of dismissal was imposed against him vide order dated 25-6-05. Ist party workman submits that enquiry was not conducted following principles of natural justice. The punishment of dismissal imposed against him is shockingly disproportionate to the alleged misconduct. Enquiry was conducted against him with malafide motive to coverup the heinous act committed by Mr. Gill Security Officer. FIR was lodged against Mr. Gill on 30-3-05. Chargesheet was issued on 31-3-05 alleging incident of 29-3-05. That the chargesheet issued to him and the order of his dismissal is outcome of the incident. Act committed by Gill on 29-3-05 outraging modesty of the lady. There were many complaints against officer Mrt.Gill. Smt. Kalavati was the important witness. Workman had given application for recording her statement. Said application was rejected. Enquiry was conducted in violation of natural justice. Before imposing punishment of dismissal, his past service record was not considered. Workman had no adverse record. The authorities did not act imparatively. The chain of incident was not considered. The witnesses produced by management were subordinate employees under Mr.Gill, Security Officer. Though the charge was alleged that workman was drunken, he was not referred for medical examination, said charge could not be proved. Punishment of dismissal imposed against him is illegal. Appellate Authority also failed to consider all those aspects. On such ground, workman prays for setting aside order of his dismissal and reinstatement with consequential benefits.

3. 2nd management filed Written Statement at Page 9/1 to 9/7 opposing claim of workman. 2nd party submits that workman was working as security guard, he was initially appointed on 3-12-75. On 29-3-05, he was on duty around 10 PM, workman was found intoxicated by Area Security Officer during night patrolling. Security Officer asked him why workman come consuming liquor. It is alleged that on that workman starts abusing in filthy language at place of his duty. Thereafter workman went to residence of Security Officer, abused Area Security Officer at his residence. The acts committed by workman amounts to misconduct. Chargesheet was issued to workman on 31-3-05 under clause 26.24, 25.16 of certified standing orders. Ist party workman submitted reply to chargesheet, reply given by workman was found unsatisfactory. Shri R.R.Singh was appointed as Enquiry Officer. Shri S.Parida was appointed as management representative. On 5-4-05, enquiry was conducted against workman. Ist party workman participated in enquiry. He admitted to have received charchesheet. Workman was allowed Defence Assistant as a co-worker. Enquiry was conducted on 21-4-05, 27-4-05, 28-4-05, 29-4-05, 30-4-05. The statements of management's witnesses were recorded and cross examined. The statements of defence witnesses Bhogilal Soni, Dinesh Kumar were recorded on 2-5-05 & 4-5-05. Enquiry Officer submitted his report holding workman guilty of the charges. Enquiry was conducted following principles of natural justice. For proved charges, punishment of dismissal imposed against Ist party workman is proper and legal. 2nd party submits that workman had not only consumed liquor but also abused in filthy language to his superior officer. The proved misconduct is of serious nature. Relief prayed by workman be rejected.

4. Workman submitted rejoinder reiterating his contentions in statement of claim.

5. As per order dated 27-2-15, enquiry conducted against workman is found legal.

6. Considering pleadings on record and findings on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	Misconduct under clause 26.18 only is established.
(ii) Whether the punishment of dismissal imposed against workman is proper and legal?	In Negative
(iii) If not, what relief the workman is entitled to?"	As per final order

REASONS

7. Point No.1- As per order dated 27-2-15, enquiry conducted against workman is found legal and proper. Question remains for consideration whether misconduct alleged against workman are proved from evidence in Enquiry Proceedings. Chargesheet Exhibit W-1 is produced. Charge No.1 under clause 26.4 pertains to gambling, drunkenness, fighting or riotous disorderly indecent behavior either at his place of work or at colliery establishment or company's residential settlements. 2nd charge under clause 26.18 pertains to assault, attempt of assault, threatening to assault, abuse, a co-worker or subordinate or supervisor while on duty or otherwise in connection with employment.

8. The statement of Mr. Gill recorded in Enquiry Proceedings shows that on 29-3-05, workman was on duty from 9PM to 5 AM patrolling duty. Around 10.30 PM, witness had proceeded in bolaro from security camp towards CGM complex. He was accompanied by Security Officer Rubel, Rinku. After they reached CGM complex, the patrolling party was found walking ahead. He given direction to proceed for patrolling. Workman was found intoxicated wearing chappals. He given directions to workman, he cannot perform duty in such conditions he should meet him in office in the morning. On that workman got annoyed, caught collar and started abusing. Witness had pushed and workman fell on the ground. Workman had abused him. He also threatened of serious consequences saying that he was local person of Kotma. After 1-2 minutes, workman went on motor cycle abusing and threatening him. In his cross, Mr. Gill says that there was no question of beating him. The workman had caught his collar and he had pushed him for separating from him.

9. Statement of management's witness Ramvridh shows that on 29-3-05, he was in night duty. Officer had come in vehicle at 10.30 PM. Workman was found intoxicated in civil dress wearing chappal. Officer said in such condition, no duty would be given to him. On that workman caught collar of the officer. The officer pushed him. Workman fell on the ground. He started abusing and threatening. They left the place around 11.30 AM. Evidence of other witnesses of management Sohanlal Pancholi, Rakesh Thakur have also similar statement with some variations. Statement of Ist party workman was also recorded. He has alleged that workman had committed rape on Ramvati Bai who was residing at his house when he return from Kotma at 9.50PM. She was lying unconscious, she disclosed that Mr. Gill had committed rape with her. The incident was reported to police on next day morning.

10. The defence witnesses Dinesh Kumar Mishra and Modilal were examined in Enquiry Proceedings. Evidence of management's witnesses in cross examination shows some discrepancies at the time of incident and leaving the place. Their evidence appears improved but statement was given by Mr. Gill before Enquiry Officer. If whole statement of Gill is accepted, only 2nd charge under clause 26.18 assaulting and abusing officer can be established. Charge under 26.4 cannot be established. Evidence on record is clear that workman was not referred for medical examination. Charge of drunkenness cannot be proved.

11. Shri R.K.Soni during course of argument pointed out the variation about the time of incident and the vehicle in which officer had come and leaving the place.

12. Learned counsel for 2nd party Shri A.K.Shashi submits that evidence cannot be re-appreciated. Learned counsel relies on ratio held in case between-

State Bank of India and others versus Ramesh Dinkar Punde reported in 2006(7)SCC-212. Their Lordship dealing with scope of judicial review held reappreciation of evidence is impermissible.

Case between West Bokaro Colliery (TISCO Ltd.) versus Ram Pravesh Singh reported in 2009-I-LLJ-220(SC) under Section 11-A of ID Act held standard of proof in departmental proceeding is different from that in a criminal case.

Considering ratio in above cases, reappreciation of evidence is not appropriate on my part. Considering the evidence on record in my considered view, only 2nd charge under Clause 26.18 is established committing assault,

indecent and abusive act is established. Charge under Clause 26.4 against workman cannot be proved. Accordingly I record my finding in Point No.1.

13. Point No.2- In view of my finding in Point No.1, 2nd charge under clause 26.16/18 is proved against workman committed act of assault and abusing Security Officer. Ist party in his evidence before Enquiry Officer has deposed that Mr. PPS Gill was annoyed because he had helped lady Ramabai for lodging the report about rape committed on her. Ramabai is not cross examined in the case. However certified copy of FIR is produced at Exhibit W-2. Said FIR was submitted by Ramabai in police station on 30-3-05. The time of incident is shown 21.15 hours of 29-3-05.

14. 2nd party has produced documents issued from JMFC Kotma shows that Mr. Gill was acquitted of the offence under Section 354 in Criminal Case No. 699/2005.

15. Learned counsel for Ist party Shri Soni submits that Mr. Gill was acquitted. The acquittal of Mr. PPS Gill in criminal case is clear that he was prosecuted on report of the lady. Therefore defence of the Ist party workman appears genuine about involvement of Mr. PPS Gill in criminal offence. As per pleadings, workman was appointed in the year 1975. Workman had completed about 30 years service.

16. Learned counsel for 2nd party Shri A.K.Shashi about interference in order of punishment relies on ratio held in case between—

Mahindra and Mahindra Ltd. versus N.B.Naravade reported in 2005-I-LLJ-1129. Their Lordship considering facts use of abusive, filthy language against superior officer held did not call for lesser punishment than dismissal.

However in present case, Officer Mr.Gill was prosecuted in criminal case and he was acquitted of the offence under Section 354 IPC. The circumstances are made out. Considering above aspects, in my considered view, punishment of dismissal imposed against workman after completing about 30 years service is harsh and therefore punishment of dismissal deserves to be modified to compulsory retirement. Accordingly I record my finding in point No.2.

17. In the result, award is passed as under:—

- (1) The action of the management of Jamuna & Kotma Area of SECL in dismissing Shri Rajendra Prasad Shukla from service w.e.f. 21-6-05 is not legal and proper.
- (2) Punishment of dismissal imposed on workman is modified to compulsory retirement.
- (3) 2nd party is directed to allow retiral benefit to workman as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 788.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 94/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/209/2000-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 788.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of South Eastern Coalfields Limited and their workmen, received by the Central Government on 15.03.2017.

[No. L-22012/209/2000-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/94/2003

Secretary,
MP Koyla Shramik Sangh (CITU),
PO West Chirimiri,
Distt. Korea,
Korea (Chhattisgarh)

...Workman/Union

Versus

Chief General Manager,
Chirimiri Area of SECL,
PO Chirimiri, Distt.Korea,
Korea (Chhattisgarh)

...Management

AWARD

Passed on this 9th day of February 2017

1. As per letter dated 13-5-03 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/209/2000-IR(CM-II). The dispute under reference relates to:

“Whether the action of the Chief General Manager, Chirimiri Area of SECL, Distt. Korea in not giving pay protection to Shri Anurudh Dubey and 11 others (as per list enclosed) in the grade of Security Guards of Chirimiri Area of SECL, Distt. Korea is legal and justified? If not, to what relief the workmen are entitled to?”

2. After receiving reference, notices were issued to the parties. Workmen submitted statement of claim at Page 4/1 to 4/5. Case of Ist party workmen is that they were working as daily wage mazdoor. They were called by letter dated 10-4-89 for interview as departmental candidates in Chirimiri Area for selection to the post of Security Guard. Thereafter on recommendation by Committee, they were selected on post of Security Guard, they were sent for six months training vide different orders commencing from 4-10-89 by management. After completion of six months training, they were regularized in post of Security guard in T&S Grade “G” in pay scale of Rs.1050-27-1428. Ist party claimants were getting monthly pay on daily rate who were regularized on the post of Security Guard T&S Grade “G” in pay scale 1050-27-1428. Their basic pay was fixed Rs.1050 without protecting their basic salary they were getting before their regularization. Workman further submits that the details of the wages drawn by them before regularization, basic pay should have been fixed at the time of their regularisation. Instead of Rs.1050, it should have been Rs.1401, 1428 & 1401 respectively. That management had issued letter dated 4-8-93 issuing guidelines to all concerned for refixation of pay of workman in case of regularization. That the pay should be fixed at the appropriate stage of pay scale of employees regularized on the post enabling pay protection. Ist party claimants further submits in similar cases, the person who were selected on the post of Security Guard on recommendation of Selection Committee posted in Baikunthpur area, pay protection was given to such security guards. That it is alleged that management avoided to follow guidelines in their case. That MPKMS, CITU, BKMS brought said matter to the notice of the management. GKMS submitted demand notice on 25-7-96 for revised pay scale with arrears. The meeting between management and CITU was held on 7-7-96. The demand of pay protection for Ist party workman was considered by the management to dispose off at Area Level but no action was taken in that regard. On such ground, Ist party are claiming arrears on benefits of pay protection with 24 % interest.

3. 2nd party filed Written Statement at Page 6/1 to 6/4 opposing claim of Ist party. Preliminary objection is raised that earlier dispute was raised by CITU Union before Conciliation Officer. However BKMS has submitted statement before this Tribunal. It is further submitted that 2nd party management invited applications from departmental candidates for selection to the post of security Guard T&S Grade “G” vide letter dated 10-4-89. In response to said letters, same departmental candidates including claimant submitted application for their selection to the post of Security Guard. After compliance of necessary formalities vide office order dated 4-10-89, claimants were selected to the post of security guard T&S Gr “G” with initial pay Rs. 1050-27-1428 under NCWA-IV. The condition was that selected candidates will be under training for period of six months. On completion of six months, they will continue in present grade. After completion of probation period, they will be retained as security guard. That where certified standing orders not exists, model standing order for coal industry will be operative. It is reiterated that on completion of training and probation period, claimants were retained as security guard Grade G in pay scale Rs. 1050-27-1428 per month. Their initial pay was fixed at Rs.1050 per month. The claimants were selected to the post of security guards as per advertisement. Accordingly they were given initial basic pay for the post. The claimants are not entitled to pay protection. It is reiterated that the claimants were confirmed in pay scale of Rs.1050 as per advertisement. Claimants are not entitled to benefit of pay protection. That claimants not supplied circular dated 4-8-93 and no comments are offered about the same. The management submits that claimants are not entitled to any relief.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the Chief General Manager, Chirimiri Area of SECL, Distt. Korea in not giving pay protection to Shri Anurudh Dubey and 11 others (as per list enclosed) in the grade of Security Guards of Chirimiri Area of SECL, Distt. Korea is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	Workmen are not entitled to any relief.

REASONS

5. The term of reference pertains to denial of pay protection to claimants Anurudh Dubey and 11 others enclosed in the list. Affidavit of evidence filed by Anirudh Dubey supporting contentions in statement of claim. That Ist party workman were promoted after departmental interview to the post of security guard. Their existing pay was Rs.1371, 405, 104, 1212, 1104, 1104, 1371, 1371, 1104 respectively. However their pay was fixed on promotion at Rs.1050 instead of their existing pay. The claimants had submitted representation claiming pay protection. That they have not given option for pay of security guard at lower pay scale than their existing pay. That Bistrampur area considered such cases and vide order dated 1-12-99, the employees were allowed pay protection benefit. That Director (P) had issued guidelines dated 4-8-93 for pay protection. Those guidelines were not followed by the management.

6. Affidavit is filed by Swaminath Pandey that he was working in Mazdoor Cat-II from 7-8-92. After interview by screening committee, he was promoted to the post of security guard on completion of training on 5-5-92, he was appointed as security guard. His ay was fixed at Rs.1500 which is less than his existing pay. He had not given option for post of security guard on pay less than his existing pay.

7. Shri Anurudh Dubey in his cross says he is acquitted with service conditions of all the claimants. He was initially appointed as Category I Mazdoor to CCM Helper. The dispute is raised for claiming pay protection. He rendered 15 years service. He was promoted as security T&S Grade "G", he received payment. From 1991, he is receiving pay reducing basic. In his further cross examination, Shri Anirudh says promotion are given as per cadre scheme by DPc. That post and pay of all employees working in the mine are fixed. He received pay for the post of security guard, T&S Gr "G" for the days he had worked. Above witness was re-examined and documents Exhibit W-5 to 10 are admitted in evidence. In his further cross, Arvind says the order of his conversion was issued by GM office, Bilaspur. He has admitted he had not sent Exhibit W-7 to GM office. He denies that pay slip produced by him was of the post he was working. In 1992, pay scale of security guard was Rs.1050/-. In 1992, he had completed 3 years working on post of security guard. He was unable to tell year and month of the pay slip Exhibit W-9. From his further re-examination Circular Exhibit W-11 is admitted in evidence. Anirudh Dubey in his further cross examination denies that Exhibit W-11 doesnot apply to this case.

8. Shri Swaminath Pandey in his cross says he studied 7th standard. He claims ignorance about NCWA and cadre scheme in the matter of promotion. He was appointed as General Mazdoor. The promotional channel of General Mazdoor provides promotion from Category I to Cat-VI upto Cat-VI. He was promoted in Cat-II and thereafter as Security Guard. He had received order of promotion to the post of security guard. Again he explained that he was appointed as security guard. He was unable to tell pay scale of security guard. In 1993, his pay was reduced. He was brought to Grade "G".

9. Shri Mohd. Gaush, Vishnu Bahadur, Ramawatar filed affidavit of evidence that on recommendation of selection committee, the claimants were promoted to security guard T&S Grade. After completion of six months training, they were posted as security guard. He was getting pay Rs. 1371/-. After promotion, his pay was fixed Rs.1050/- instead of Rs.1401/-. The representation and demand notice were submitted for claiming pay protection. In his cross examination, he says he was appointed as General Mazdoor, cadre scheme is framed excluding General Mazdoor. He claims ignorance about cadre scheme for post of security guard. He claims ignorance whether promotion to the post of security guard are given as per rules. In 1989, applications were invited for post of security guard Category "G". he was paid pay of security guard. Prior to it, he was working as tyndal mazdoor Category IV. His pay was reduced after six months training of security guard. He had raised objection in writing,. After his pay was reduced, he was willing to go to post of Category IV. He not submitted application in writing for it. If he gets his fullpay, he is willing to go to the original post.

10. Shri Vishnu Bahadur has also filed similar affidavit. In his cross examination, he says 11 claimants were appointed on different dates. He was unable to tell about his service record. In 1989, he was appointed as Khalasi Category III different from General Mazdoor category. There is cadre scheme for Khalasi. He denies that there is no cadres scheme for the post he was working. He denies that Khalasi is not promoted to the post of security guard. Applications were called for post of security guard. He had also submitted applications. He was appointed on Grade "G" on recommendation of selection committee. After his appointment as security guard Grade "G" and he was given six months training. Thereafter he was not promoted. He was paid less pay. He submitted representation to the management. Since 2000, he is working as driver.

11. Shri Ramavatar filed affidavit of his evidence supporting his claim. In his cross examination however he says he doesnot know the contents of his affidavit.

12. Shri Abadh Bihari Sukla though filed affidavit, he has not appeared for cross examination. Therefore his evidence cannot be considered.

13. Management filed affidavit of evidence of Shri M.Sen, Area Personal Manager. Affidavit is devoted on the point service conditions of coal mine workers are covered by NCWA. The departmental candidates eligible are given preference in the matter of promotion as per cadre scheme. Departmental candidates are selected by selection committee, necessary orders are issued. Pay is fixed according to cadre scheme. There is no compulsion on departmental candidates to accept post they are selected. They may or may not accept new post they are selected. The substance of his affidavit is the security guard selected on recommendation of the Committee for post of security Guard Grade "G" as their pay was fixed Rs.1050 as per NCWA. The claims were confirmed after selection. The initial pay Rs.1050 was accepted by claimants. From re-examination of Shri A.M.Sen, documents Exhibit M-8(a), (b) are admitted in evidence. In his cross, witness of the management says before their selection, security guard were working in time rated category. After their selection as security guard Grade C, pay of some security guard was reduced. Notice issued for post of security guard, basic pay for the post was mentioned. Document is at Exhibit M-1. He denies that the pay of security guard Grade "G" at Bistrampur area pay protection was allowed. There is no provision or rule for pay protection after the selection of candidates. Management's witness says Anjani Sharan, P.K.Pandey, KA Sunder, Kumar Gaurav, Avdhesh Tiwari filed affidavit of their evidence. From their evidence, documents Exhibit M-10 to 15,12,17 are admitted in evidence. From evidence of Avdhesh Tiwari, documents M-18,19 are admitted. Anjani in his cross admits documents M-10 to 15 were submitted in response of office letter dated 9-8-12. He had seen that letter. It is not produced along with his affidavit. He claims ignorance whether any of those workers had not given evidence on 8-2-2011. The workman may have given application in view of document Exhibit M-1. In document M-1, pay scale for post is not given. It is interview call. In his further cross, management's witness says before selection, Swaminath pandey was working as Category II, Awadh Bihari in Category I, Ram Jiban in General Category I, Hari sankar in General Mazdoor Category I, Mohan Singh in General Mazdoor. He was unable to tell whether all those persons were getting more salary prior to they were appointed as security guard.

14. Samuel in his cross says letter dated 5-10-12 is not produced on record but he claims that said letter was with him. Letter was issued by Area Personal Manager.

15. Shri V.K.Pandey in his cross says letter dated 13-8-12 was forwarded by him to workman. Letter was not produced on record.

16. Shri K.A.Siunder in his cross says before selection of workman, Mohd Gaush was working in Category IV. Then he was appointed as Security Guard.

17. Kumar Gaurav in his cross examination did not give specific reply whether he produced letter referred in Exhibit M-18. Awadhesh Tiwari in his cross claims ignorance what were the reasons for issuing letter Exhibit M-19.

18. Turning to documentary evidence, Exhibit W-3 is office order dated 24-11-99 issued by Bistrampur area on designating the employees, pay protection was allowed. Said letter finds clear mention that the employees had not given option for the post of security guard and were designated to the post of Security guard T&S Grade G. Exhibit W-4 is corrigendum dated 13-12-90 pertains to the pay protection to the post of piece rated/ time rated workers on their selection, appointment as fitter, Sirdar, shot firer. Said document doesnot help claim of workman as they were not working in piece rated, time rated category neither claimants were appointed as fitter, Sirdar, shotfirer post. Exhibit W-5 is order dated 4-4-92 Shri Salik Ram and 5 other General Mazdoor were designated as security guard on recommendations of selection committee. Said documents provides for six months training and appointment on probation of six months. Service conditions are covered by standing orders. Document is silent about the pay protection. Document doesnot support claim of Ist party. Documents Exhibit W-5,6 are the representations. W-7 is charter of demand. Those documents donot support claim of Ist party. The pay slips Exhibit W-8 to W-10 also donot support claim of pay protection.

19. Management produced documents M-1 to 7 the interview calls and applications submitted by the claimants giving undertaking to accept the service conditions. In Exhibit M-1, pay scale of post of security guard is not mentioned. M-8 is order dated 4-10-89 designating 46 candidates as security guards in pay scale Rs.1050-27-1428. Exhibit M-8(a) is order regularizing 44 security guards on post of security guard T&S Grade in pay scale Rs.1050-27-1048. Exhibit M-8 is office order dated 13-4-920 discriminating 1 employees as security guard after completion of six months training which was followed by recommendation of screening committee pertains to the claimants. Their appointment was on probation for six months. The order is silent about pay protection. Exhibit M-10 to 17 are applications submitted by Swaminath Pandey, Awadh Bihari, Ramavatar Pramod S.Sen, Harisankar, Mohan Singh, Vishnu Prasad. That they have not agreed to go back to the original post in pursuance of letter dated 13-8-12. Exhibit W-18 is application submitted by Mohd Goush that he was not willing to work on the post of tyndal mazdoor. He was willing to work on his present post. During course of argument, learned counsel for Ist party Shri P.C.chandak heavily relied on document Exhibit W-11 in support of his claim for pay protection. Para 2 of Exhibit W-11 pertains to pay protection to piece rated employees while converting into monthly/ daily rated employees. All the claimants were not working as piece rated workers neither they were converted into monthly/ daily rated employees. Said document doesnot support claim of Ist party for pay protection.

20. I may also refer to letter dated 4-8-93 produced on record at Page 8/19. It appears inadvertently filed. Workman did not take care to prove the said document. However on careful perusal of said letter, it is clear that the matter pertains to re-fixation of pay of workers in case of regularization in other categories. The pleading and evidence of Ist party shows all the claimants were working in different categories of General Mazdoor. On recommendation of committee, they were selected for the post of security guard T&S Grade "G". It is not therefore case that they were regularized to said post. In statement of claim, there is reference of letter dated 4-8-93. The above letter doesnot support claim of Ist party as it pertains to regularization and not appointment after selection.

21. Learned counsel for Ist party Shri P.C.Chandak during course of argument submits that there is no rule or order allowing pay protection to claimants. If there would have been such rule, the claimants would have approached for recovery under Section 33(C)(2) of IID Act instead the dispute under Section 10 has been raised and Tribunal therefore needs to decide their claim of pay protection. I am not convinced with above submissions. The dispute is raised w.r.t. claim of Anirudh Dubey and 11 others. Dispute under reference pertains to general payment of pay protection to all employees, therefore requires to be decided whether the claim for protection of pay is established by any existing rule or regulation. The claim for pay protection could not be decided as general demand for all the employees working with 2nd party management.

22. Learned counsel for 2nd party Shri A.K.Shashi relies on ratio held judgment by MP High Court between-Makhanlal Tamrakar versus SECL reported in Writ Petition No. 826/97. In said case, their Lordship did not allow the claim for pay protection. Management was directed not to make recovery of excess payment. Similar view was taken by my predecessor in R/79/94 & in R/76/04- award relied by Shri A.K.Shashi. From reasons discussed above, claim of Ist party for pay protection is not established. Therefore I record my finding in Point No.1 in Affirmative.

23. In the result, award is passed as under:-

- (1) The action of the Chief General Manager, Chirimiri Area of SECL, Distt. Korea in not giving pay protection to Shri Anurudh Dubey and 11 others in the grade of Security Guards of Chirimiri Area of SECL, Distt. Korea is legal and proper.
- (2) Workmen are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 789.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 31/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/16/2011-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 789.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2011) of the Central Government Industrial Tribunal-cum-

Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited and their workmen, received by the Central Government on 15.03.2017.

[No. L-2202/16/2011-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/31/2011

Shri Ramesh Sahu,
S/o Shri Moji Lal Sahu,
R/o Village Bagdona,
Post Pathakheda, Thana Sarni,
Distt. Betul (MP)

...Workman

Versus

Superintendent of Mines,
Satpura Mine No.2, WCL,
Pathakheda,
Distt. Betul (MP)

...Management

AWARD

Passed on this 16th day of February 2017

1. As per letter dated 19-4-2011 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-2202/16/2011-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of M/S WCL in terminating the service of Shri Ramesh Sahu S/o Maujeelal Sahu w.e.f. 28-2-09 is legal and justified? To what relief the workman concerned is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. Case of Ist party workman is that he was working as Mining Sirdar in 2nd party. He was appointed on 26-6-71. Since his appointment, he was working in Mine No.3,4 till 30-10-73. Then he was transferred to Satpura Mine No.1. he was working in said mine till 1996. Thereafter he was transferred to Mine No.2 where he worked till 28-2-09. He was illegally retired under the guise of completing 60 years of age.

3. At the time of his appointment, his father told his date of birth was 5-2-50. Accordingly his date of birth was recorded in service book. He was not retired as per date of birth recorded in service book. he was illegally retired on 28-2-09 instead of 15-2-2010. It is alleged that management had illegally corrected his date of birth and retired him from service. On such ground, workman prays his reinstatement as per his date of birth 15-2-1950.

4. 2nd party filed Written Statement opposing claim of workman. 2nd party submits that terms of reference is illegal. There was no termination of services of workman. Ist party claimed his date of birth was 15-5-50. As per the statutory record, his date of birth was recorded 15-2-49. After completing 60 years service, workman was retired on 28-2-09. 2nd party submits that workman was initially appointed on 1-11-73. He was transferred to different units of Pathakheda area. Workman was issued Gas Testing Certificate, Mining Sirdar Certificate by BGMS. His date of birth was recorded 15-2-49. It is denied that the date of birth of workman is 15-2-50. Workman had not submitted authentic record about his date of birth as per I.I.No.37/76. That workman was not terminated. Section 25-F of ID Act is not applicable. 2nd party submits that workman himself had declared his date of birth 15-2-49 before BGMS. At the time of appearing exam of Gas Testing Certificate, Mining Sirdar Certificate. 2nd party prays for rejection of claim.

5. Case was fixed for evidence of workman on 23-1-14, 17-4-14, 30-7-14 till today on several dates. Learned counsel for workman Shri Ashok Shrivastava submits that the workman could not be located and shown his inability to file evidence. Learned counsel for management submitted that he doesnot desire to examine any witness. As such both parties not adduced evidence in the case. Consequently dispute could not be decided on merit. No dispute award is passed.

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 मार्च, 2017

का.आ. 790.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 8/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/81/2014-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 790.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 15.03.2017.

[No. L-22012/81/2014-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri Muralidhar Pradhan, Presiding OfficerDated the 2nd day of February, 2017**INDUSTRIAL DISPUTE No. 8/2015****Between :**

The President,
(Sri Bandari Satyanarayana),
Rashtriya Collieries Mazdoor Sangh(RCMS),
Rajkumar Complex, Saibaba Temple Road,
Jaffar Nagar, Mancherla – 504 208.
Adilabad Distt.

...Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Sreerampur Area, Sreerampur-504 303.
Adilabad

...Respondent

Appearances :

For the Petitioner : None

For the Respondent : Representative

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/81/2014-IR(CM-II) dated 23.1.2015 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Area, Adilabad Distt. in terminating the services of Sri Adduri Elliah, Ex-Coal Filler, S R.K-5 Inc., Sreerampur Area with effect from 10.08.1999 is justified or not? If not, to what relief the applicant is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 8/2015 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement of the Petitioner union. In spite of availing several opportunities, the Petitioner union remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union is not interested in pursuing the dispute. Thus, 'No dispute' award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 2nd day of February, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 791.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 1/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 791.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Muralidhar Pradhan, Presiding Officer

Dated the 21st day of November, 2016

INDUSTRIAL DISPUTE No. 1/2016

Between :

Sri Kolipaka Narender
S/o Sambaiah,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad

...Petitioner

1. The Director (P.A. & W),
M/s. Singareni Collieries Company Ltd.,
Kothagudem, Khammam District.
2. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri, Adilabad District.
3. The Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
RK-1A Incline,
Mandamarri, Adilabad District.

...Respondents

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S.Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

This is a petition filed under Sec.2A(2) of the Industrial Disputes Act, 1947 by Sri Kolipaka Narender, the workman, who worked as Badli Filler at M/s. Singareni Collieries Company Ltd., Mandamarri against the management for his reinstatement into the service of the management with full back wages and other relevant benefits or consequential benefits, after setting aside his termination.

2. The case of the Petitioner is that he was appointed in the Respondent company on 26.2.2007 as Badli Filler. While so, he was issued with a chargesheet dated 5.1.2013 alleging certain irregularities. The enquiry was biasedly conducted on the basis of charge sheet without giving any opportunity to the Petitioner. The Enquiry Officer on the basis of lop sided enquiry erroneously held the charges as proved against him. On the basis of erroneous findings of the Enquiry Officer, the Petitioner was dismissed from his service as per the office order dated 10.11.2013. As such, the dismissal order passed against the Petitioner is entirely illegal, arbitrary, violative of principles of natural justice and he prays to direct the Respondents for his reinstatement into service with all attendant benefits etc..

3. During the midst of hearing of the case at the consent of both the parties, the present case is placed before the Chairman, Lok Adalat Bench on 21st day of November, 2016. Wherein a settlement was arrived between the parties. The Respondent management has been directed to take back the Petitioner workman to duty as Badli Filler (Underground) afresh. In agreement of the above, the parties/counsel have affixed their signatures/thumb impressions in presence of the members of the Lok Adalat Bench and the order so passed has been annexed to this award as it is.

4. In view of the settlement arrived before Lok Adalat Bench, a no dispute award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Sri J. Vijaya Sarathi, Secretary to the Court and corrected by me on this the 21st day of November, 2016.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

IN THE LOK ADALAT

(for settlement of cases relating to CGIT cum labour court at Hyderabad Under Section 20 of the legal Services Authorities Act, 1987)

Saturday the 21st day of November, Two Thousand and Sixteen

PRESENT: 1. Sri Murlidhar Pradhan : Presiding Officer
2. Sri C.Niranjan Rao : Member
3. Sri B.G.Ravindra Reddy : Member

(Constituted U/s 19 of the LSA Act, 1987 by the APSLSA Order ROC No.186/LSA/2006 dt.22-8-2006)

In the matter of case No. LCID No.1/2016/PLAC No. 6/2016

(On the file of CGIT-cum-Labour court at Hyderabad)

Between :

Kolipaka Narender [EC No.237344],s/o Sambaiah,
Aged about 31 years,worked as Badli filler at RK-1A Incline ,
Singareni Collieries Company Limited,
Mandamarri, Mancherial District

...Petitioner

AND

1. The Director [PA&W],
Singareni Collieries Company limited,
Bhadradi Kothagudem District.
2. The Singareni Collieries company LTD.,
Rep.by its General Manager ,
Mandamarri ,Mancherial District.
3. The colliery Manager,
RK- 1A Incline,singareni Collieries Company Ltd.,
Mandamarri ,Mancherial District.

...Respondents

This case is coming up before the Lok Adalat on 21-11-2016 for settlement in the presence of the applicant appearing in person /represented by his counsel Sri K.Vasudeva Reddy and the Respondent too,being present in person/represented by his counsel,Sri P.A.V.V.S.sarma .on a perusal of the case record,after considering and hearing both sides and with the consent of both sides ,the Lok Adalat has arrived at the following settlement and delivered the following;

AWARD UNDER SECTION 21 OF THE L.S.A.ACT,1987

The petitioner had agreed to the following proposals of the Management ,as the petitioner had put in 100 musters in the two years of the preceding 5 years of dismissal and raised the dispute within three years from the date of dismissal from service .the contents are read over and explained to the petitioner in his language and agreed by signing the same.

- a. the petitioner workman agreed to treat his appointment as fresh appointment as Badli Worker [Underground] without back wages and continuity of service subject to medical fitness by company Medical Board.
- b. Irrepective of past designations,petitioner workman agrees to the appointment as Badli Worker [Underground] afresh and need not be posted to the same place ,where the workmen was last employed .
- c. The petitioner workmen agrees for absolutely 20 musters every month and review every three months is absolutely essential .In the event of any short fall attendance during the 3 months period, his services will be terminated without any further notice and enquiry .
- d. Respondent Management agreed that any forced absenteeism on account of mine accidents /natural disease/illness,treatment taken at Company's Hospitals, will be deemed as attendance during the trial period.
- e. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, v.holidays, etc., for appointment afresh .

This LCID is disposed of accordingly .The respondent management is directed to take him back to duty as Badli Worker [Underground] afresh .

In agreement of the above ,the parties /counsel have affixed their signatures /thumb impressions in the presence of the member of this Lok Adalat Bench .

-Sd- Illegible

Signature of Applicant[s]

-Sd- Illegible

Signature of Respondent[s]

-Sd- Illegible

Signature of Counsel for Applicant[s]

-Sd- Illegible

Signature of Counsel for Respondent [s]

Signature of presiding Officer & Members of the Bench

1. -Sd- Illegible

2. -Sd- Illegible

3. -Sd- Illegible

Note : This award is final and binding on all the parties and no appeal shall lie to any court as per Section 21(2) of LSA. ACT 1987.

नई दिल्ली, 16 मार्च, 2017

का.आ. 792.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 48/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 792.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the management of M/s. SCCL and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
HYDERABAD****Present :** Sri MURALIDHAR PRADHAN, Presiding OfficerDated the 17th day of February, 2017**INDUSTRIAL DISPUTE L.C.No. 48/2007****Between:**

Sri Pulipaka Lingaiah,
S/o Late Ramaiah,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
RG-I Area, Ramagundam, Karimnagar District.
2. The Superintendent of Mines/ Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
GDK-2A Incline, Godavarikhani,
Karimnagar District.

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S.Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

Sri Pulipaka Lingaiah who worked as Badli filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring proceeding No. P.RG.I/32/99/3012 dated 15.4.1999 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows:**

The Petitioner was appointed as Badli Coal Filler and subsequently he was promoted as Coal Filler. While the matter stood thus, a charge sheet was issued to him by the Respondents alleging that the Petitioner absented for duty during the year 1997, which amounts to misconduct under company's Standing Order No.25.25 and it is also stated that the charge sheet was sent to the Petitioner's house which was returned undelivered, as such a paper advertisement was issued, advising the Petitioner to attend for the enquiry and as the Petitioner did not attend the enquiry on the scheduled date, an exparte enquiry was conducted and he was dismissed from service. The Petitioner was undergoing treatment in his native village on account of mentally disturbed status, under going depression and he was not aware of either issuance of charge sheet or other proceedings. The Petitioner could have certainly participated in the enquiry, if really he was in receipt of the notice of the enquiry. It is stated that the Petitioner was unable to perform his duties regularly during the year 1997 only on account of his ill-health and other family problems, for this he could not attend his duties sincerely, but without considering any of his submissions, the Petitioner was dismissed from service vide office order dated 15.4.1999. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered about 7 years of continuous service in the Respondents' management. He remained absent from duty only on account of his sickness which ought not to have been treated as a serious misconduct. The Petitioner made the above stated submissions, but without considering any of his submissions, the Petitioner was dismissed from service vide office order dated 15.4.1999. The Petitioner approached the Respondents to consider his case sympathetically but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. P.R.G.I/32/99/3012 dated 15.4.1999 issued by the Respondents as illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. **The Respondents filed counter denying the averments made in the claim petition, with the averments in brief which runs as follows:**

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner has been dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner had remained absent unauthorizedly from duty without sufficient cause on a number of days and attended four days for duty during the calendar year 1997. A charge sheet was sent to his last known home address as per the procedure as he was not attending for duty, which was returned undelivered. As such, the notice of enquiry was published in Telugu daily Andhra Jyothi dated 3.11.1998 advising the Petitioner to attend the enquiry fixed on 10.11.1998. The Petitioner neither submitted any explanation to the charge sheet nor attended the enquiry, as such an exparte enquiry was conducted on 10.11.1998 wherein the charges levelled against the Petitioner were proved. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, Respondent No.1 was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition be dismissed in limini.

4. The domestic enquiry conducted in the present case is held as legal and valid vide order dated 2.2.2009, in view of the memo filed by the counsel for the Petitioner, stating therein, not to challenge the validity of the domestic enquiry.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Pulipaka Lingaiah is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to his illness and other family problems, the Petitioner could not be able to attend his duty sincerely. But on account of absenteeism capital punishment of dismissal from service has been imposed on the Petitioner. When the Petitioner has taken a stand that due to illness he could not be able to attend his duties regularly and remained

absent, the authority should have considered his case but, without considering any of the submissions of the Petitioner, the authority has passed one cryptic and unreasoned order and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' management is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to illness the Petitioner could not be able to regular in his duty. In fact, due to illness the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the Petitioner did not participate and the charges levelled against the Petitioner were proved. For this, capital punishment has been imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 35 years, he is now aged about 45 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked more than 7 years under the Respondents. When punishment has been imposed, his past conduct has not been considered. While imposing capital punishment to his employees, the management should think of the condition of the worker as well as his family members so also his past conduct. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action of the management in imposing the punishment of dismissal from service to Sri Pulipaka Lingaiah is not legal and justified.

This point is answered accordingly.

10. Point Nos. II & III: In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Pulipaka Lingaiah is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the Tribunal with a prayer for reinstatement into service he should be given a chance to serve for his family members. Now, after dismissal of service the Petitioner has become jobless and he being the sole earning member of his family, is unable to provide a square meal to his family members. In such a circumstances, atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But, in the circumstances stated above, the Petitioner is not entitled to get all the relief as claimed in his petition. But the Petitioner is entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. P.RG.I/32/99/3012 dated 15.4.1999 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Pulipaka Lingaiah be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to either maintain minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17th day of February, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 793.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 85/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 793.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 85/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
HYDERABAD****Present :** SRI MURALIDHAR PRADHAN, Presiding OfficerDated the 17th day of February, 2017**INDUSTRIAL DISPUTE L.C.No. 85/2007****Between :**

Sri Pittala Saidulu,
S/o Ramulu,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bhupalapalli Area, Bhupalapalli,
Warangal District.
2. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
KTK No.5 Incline, Bhupalapalli,
Warangal District.

3. The Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
IK.1A Incline, IK & CHNR Area,
Srirampur, Adilabad District.

...Respondents

Appearances:

- For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates
For the Respondent : M/s. P.A.V.V.S.Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

Sri Pittala Saidulu who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. BHP/PER/20-D/2140 dated 31.5.2007/6.6.2007 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli filler on 25.11.2003 and after undergoing basic training in the underground, he was posted to work at Chennur 1 & 1A Incline. The Petitioner was regular to his duties. But during the year 2005, the Petitioner suffered with abdominal trouble, for which he has undergone treatment at Chennur Dispensary. While the matters stood thus, charge sheet dated 10.4.2006 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 2005, which amounts to misconduct under company's Standing Order No.25.25 and 25.31. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. BHP/PER/20-D/2140 dated 31.5.2007/6.6.2007. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 2005 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered three years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No.BHP/PER/20-D/2140 dated 31.5.2007/6.6.2007 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 1.4.2004 as Badli Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. The domestic enquiry conducted in the present case is held as legal and valid vide order dated 21.12.2011.
5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Pittala Saidulu is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No. I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. The authority has not considered any of the submissions of the Petitioner, and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 24 years, he is now aged about 34 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than three years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Pittala Saidulu is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Pittala Saidulu is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. BHP/PER/20-D/2140 dated 31.5.2007/6.6.2007 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Pittala Saidulu be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters,

taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17th day of February, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 794.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 140/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 794.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 140/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present : Sri MURALIDHAR PRADHAN, Presiding Officer

Dated the 7th day of February, 2017

INDUSTRIAL DISPUTE L.C.No. 140/2006

Between :

Sri Nune Ramesh,
S/o Venkati,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Ramakrishnapur (Presently Sreerampur Area),
Adilabad District.
2. The Superintendent of Mines/Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
RK-5 Incline, Sreerampur,
Adilabad District.

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

Sri Nune Ramesh who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. P/RKP/16/98/2735 dated 28.9.1998 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli filler on 5.2.1991 and later he was promoted as Coal Filler in the year 1995. The Petitioner was regular to his duties till the year 1996. But the Petitioner suffered with illness and other family problems. While the matters stood thus, charge sheet dated 2.3.1998 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 1997, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. P/RKP/16/98/2735 dated 28.9.1998. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 1997 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered five years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. P/RKP/16/98/2735 dated 28.9.1998 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 8.2.1991 as Badli Filler under dependent employment scheme and he was regularised with effect from 1.9.1995 as Coal Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner admitting the validity of the domestic enquiry to be legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 20.2.2009.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Nune Ramesh is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. The authority has not considered any of the submissions of the Petitioner, and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 33 years, he is now aged about 44 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than five years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Nune Ramesh is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Nune Ramesh is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. P/RKP/16/98/2735 dated 28.9.1998 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Nune Ramesh be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 7th day of February, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 795.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 140/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 795.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 140/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri MURALIDHAR PRADHAN, Presiding Officer

Dated the 20th day of February, 2017

INDUSTRIAL DISPUTE L.C.No. 140/2007

Between:

Sri Gandam Rajender,
S/o Rajaposham,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Srirampur Area, Srirampur,
Adilabad District.
2. The Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
RKNT Incline, Srirampur
Adilabad District.

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Sri M.V. Hanumantha Rao, Advocate

AWARD

Sri Gandam Rajender who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. SRP/PER/13/008/4611 dated 1.10.2003 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli filler on 2.1.1989 and he was confirmed as Coal Filler during the year 1995. The Petitioner was regular to his duties till the year 2001. But during the year 2002, the Petitioner suffered with Astham, for which he has taken treatment at various hospitals including company's hospital. While the matters stood thus, charge sheet dated 25.3.2003 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 2002, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. SRP/PER/13/008/4611 dated 1.10.2003. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 2002 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered 13 years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No.SRP/PER/13/008/4611 dated 1.10.2003 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 30.1.1989 as Badli Filler and was later regularised as coal filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner not to challenge the domestic enquiry as legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 1.5.2009.
5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Gandam Rajender is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. The authority has not considered any of the submissions of the Petitioner, and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 38 years, he is now aged about 48 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than 13 years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Gandam Rajender is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Gandam Rajender is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. SRP/PER/13/008/4611 dated 1.10.2003 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Gandam Rajender be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 20th day of February, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 796.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 135/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 796.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 135/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri MURALIDHAR PRADHAN, Presiding Officer

Dated the 17th day of February, 2017

INDUSTRIAL DISPUTE L.C.No. 135/2007

Between:

Sri Boddupalli Mallesh,
S/o Komuraiah,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri,
Warangal District.
2. The Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
KK-1 Incline, Mandamarri.
Adilabad District.

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates
For the Respondent : Sri M.V. Hanumantha Rao, Advocate

AWARD

Sri Boddupalli Mallesh who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. MMR/PER/D/072/1958 dated 7.5.2002 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli filler in the year 1992 and he was confirmed as Coal filler in the year 2000. The Petitioner was regular to his duties. But during the year 2000, Petitioner's mother expired and his brother expired due to electrocution, due to the above pathetic incidents, the Petitioner remained shocked and fell sick. While the matters stood thus, charge sheet dated 13.2.2001 was issued to the Petitioner by the Respondents alleging that the Petitioner absented for duty during the year 2000, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. MMR/PER/D/072/1958 dated 7.5.2002. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 2000 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered eight years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No.MMR/PER/D/072/1958 dated 7.5.2002 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 1.6.1992 as Badli Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner conceding the validity and legality of the domestic enquiry, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 6.11.2008.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Boddupalli Mallesh is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to the death of the mother and brother of the Petitioner, and other family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. The authority has not considered any of the submissions of the Petitioner, and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to the death of his mother and brother, and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 37 years, he is now aged about 47 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than eight years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Boddupalli Mallesh is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Boddupalli Mallesh is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. MMR/PER/D/072/1958 dated 7.5.2002 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Boddupalli Mallesh be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17th day of February, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 797.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 12/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 797.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri MURALIDHAR PRADHAN, Presiding Officer

Dated the 16th day of February, 2017

INDUSTRIAL DISPUTE L.C.No. 12/2007

Between:

Sri Bheema Rajanna,
S/o Laxmaiah,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri,
Adilabad District.
2. The Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
KK.5A Incline,
Mandamarri, Adilabad District.

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S.Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

Sri Bheema Rajanna who worked as Badli filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring proceeding No. P/MM/7/2/98/3152 dated 29.10.1998 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as Badli Filler in the year 1990 and subsequently he was regularised as Coal Filler. While the matter stood thus, a proceeding dated 26.3.1998 was issued to him by the Respondents alleging that the Petitioner absented for duty during the year 1997, which amounts to misconduct under company's Standing Order No.25.25 and it is also stated that the charge sheet was sent to the Petitioner's house which was acknowledged by the Petitioner advising the Petitioner to attend for enquiry and as the Petitioner did not attend the enquiry on the scheduled date, an exparte enquiry was conducted and he was dismissed from service. The Petitioner that he was undergoing treatment in his native village on account of hi mentally disturbed status, under going depression and he was not aware of either issuance of charge sheet or other proceedings. The Petitioner also stated that his only son was expired in an accident and he himself was an in-door patient in the company's hospital for 6 months, even prior to 1997, and due to the above incidents he has to face some family problems also. The Petitioner could have certainly participated in the enquiry, if really he was in a condition to attend the enquiry. It is stated that the Petitioner was unable to perform his duties regularly during the year 1997 only on account of his ill-health and other family problems, for this he could not attend his duties sincerely, but without considering any of his submissions, the Petitioner was dismissed from service vide office order dated 29.10.1998. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered about 6 years of continuous service in the Respondents' management. He remained absent from duty only on account of his sickness which ought not to have been treated as a serious misconduct. The Petitioner made the above stated submissions, but without considering any of his submissions, the Petitioner was dismissed from service vide office order dated 29.10.1998. The Petitioner approached the Respondents to consider his case sympathetically but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order bearing No. P/MM/7/2/98/3152 dated 29.10.1998 issued by the Respondents as illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the claim petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner has been dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner had remained absent unauthorizedly from duty without sufficient cause on a number of days and attended four days for duty during the calendar year 1997. A charge sheet was sent to him in his last known home address as per the procedure as he was not attending for duty, which was acknowledged by the Petitioner but he did not submit his written explanation. As he was continued to remain absent from duties, the notice of enquiry was published in Telugu daily Andhra Jyothi dated 23.8.1998 advising the Petitioner to attend an enquiry fixed on 2.9.1998. The Petitioner neither submitted any explanation to the charge sheet nor attended the enquiry, as such an exparte enquiry was conducted on 2.9.1998 wherein the charges levelled against the Petitioner were proved. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled

against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, Respondent No.1 was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition be dismissed in limini.

4. The domestic enquiry conducted in the present case is held as legal and valid vide order dated 6.7.2009, in view of the memo filed by the counsel for the Petitioner, stating therein, not to challenge the validity of the domestic enquiry.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. **In view of the above facts, the points for determination are:**

I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Bheema Rajanna is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to his illness and other family problems, the Petitioner could not be able to attend his duty sincerely. But on account of absenteeism capital punishment of dismissal from service has been imposed on the Petitioner. When the Petitioner has taken a stand that due to illness he could not be able to attend his duties regularly and remained absent, the authority should have considered his case sympathetically but, without considering any of the submissions of the Petitioner, the authority has passed one cryptic and unreasoned order and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' management is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to illness of the Petitioner and death of his son, the Petitioner could not be able to regular in his duty. In fact, due to illness the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the Petitioner did not participate and the charges levelled against the Petitioner were proved. For this, capital punishment has been imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the Tribunal and is ready and willing to provide bread and butter to his family members. When he has already realised his mistake atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked more than 12 years under the Respondents. When punishment has been imposed, his past conduct has not been considered. While imposing capital punishment to his employees, the management should think of the condition of the worker as well as his family members so also his past conduct. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action of the management in imposing the punishment of dismissal from service to Sri Bheema Rajanna is not legal and justified.

This point is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Bheema Rajanna is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the Tribunal with a prayer for reinstatement into service he should be given a chance to serve for his family members. Now, after dismissal of service the Petitioner has become jobless and he being the sole earning member of his family, is unable to provide a square meal to his family members. In such a circumstances, atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But, in the circumstances stated above, the Petitioner is not entitled to get all the relief as claimed in his petition. But the Petitioner is entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. P/MM/7/2/98/3152 dated 29.10.1998 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Bheema Rajanna be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to either maintain minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of February, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 798.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 120/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 798.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 120/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD**

Present : Sri MURALIDHAR PRADHAN, Presiding Officer

Dated the 17th day of February, 2017

INDUSTRIAL DISPUTE L.C.No. 120/2007

Between :

Sri Marineni Mysulu,
S/o Bondyalu,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri,
Adilabad District.
2. The Colliery Manager,
M/s. Singareni Collieries Company Ltd.,
RK-1 Incline, Mandamarri,
Adilabad District.

...Respondents

Appearances :

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : M/s. P.A.V.V.S.Sarma & Vijaya Lakshmi Panguluri, Advocates

AWARD

Sri Marineni Mysulu who worked as Badli Filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring the proceeding No. P/RKP/16/98/2743 dated 28.9.1998 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as badli filler in the year 1988 and rendered his sincere services. While the matter stood thus, a proceeding dated 24.1.1997 was issued to him by the Respondents alleging that charge sheet was issued under company's Standing Order No.25.25 for habitual absenteeism during the year 1996 and it is also stated that the charge sheet was sent to the Petitioner's house which was returned undelivered, as such a paper advertisement was issued, advising the Petitioner to attend for the enquiry and as the Petitioner did not attend the enquiry on the scheduled date, an ex-parte enquiry was conducted and he was dismissed from service. The Petitioner was undergoing treatment in his native village and he was not aware of either issuance of charge sheet or publication made by the Respondents in the newspapers. The Petitioner could have certainly participated in the enquiry, if really he was in receipt of the charge sheet or notice of paper publication. It is stated that the Petitioner was unable to perform his duties regularly during the year 1996 only on account of his ill-health and other family problems, for this he could not attend his duties sincerely, but without considering any of his submissions, the Petitioner was dismissed from service vide office order dated 28.9.1998. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered about 9 years of continuous service in the Respondents' management. He remained absent from duty only on account of his sickness which ought not to have been treated as a serious misconduct. The Petitioner made the above stated submissions, but without considering any of his submissions, the Petitioner was dismissed from service vide office order dated 28.9.1998. The Petitioner approached the Respondents to consider his case sympathetically but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No. P/RKP/16/98/2743 dated 28.9.1998 issued by the Respondents as illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the claim petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner has been dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following

the principles of natural justice. The Petitioner had remained absent unauthorizedly from duty without sufficient cause on a number of days and attended 34 days for duty during the calendar year 1996. A charge sheet was sent to his last known home address as per the procedure as he was not attending for duty, which was served by the postal authorities to the Petitioner. The Petitioner neither submitted any explanation to the charge sheet nor attended the enquiry, as such an ex-parte enquiry was conducted on 26.5.1998 wherein the charges levelled against the Petitioner were proved. The enquiry was conducted purely following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, Respondent No.1 was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner conceding the validity and legality of the domestic enquiry, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 21.6.2010.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

- I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Marineni Mysulu is legal and justified?
- II. Whether the Petitioner is entitled for reinstatement into service?
- III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. The authority has not considered any of the submissions of the Petitioner, and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 37 years, he is now aged about 47 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than nine years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Marineni Mysulu is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Marineni Mysulu is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. P/RKP/16/98/2743 dated 28.9.1998 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Marineni Mysulu be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 17th day of February, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 799.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एससीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ सं. 52/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22013/1/2017-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 799.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. SCCL, and their workmen, received by the Central Government on 15.03.2017.

[No. L-22013/1/2017-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD****Present :** Sri MURALIDHAR PRADHAN, Presiding OfficerDated the 16th day of February, 2017**INDUSTRIAL DISPUTE L.C.No. 52/2007****Between:**

Sri Neduri Saraiah,
S/o Odelu,
C/o Smt. A. Sarojana,
Advocate, Flat No.G7,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad .

...Petitioner

AND

1. The General Manager,
M/s. Singareni Collieries Company Ltd.,
Sreerampur(Projects) Area, Sreerampur, Adilabad District.
2. The Colliery Manager /Superintendent of Mines,
M/s. Singareni Collieries Company Ltd.,
IK-1A Incline, Sreerampur Area,
Adilabad District.

...Respondents

Appearances:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva Reddy, Advocates

For the Respondent : Sri S.M. Subhani, Advocate

AWARD

Sri Neduri Saraiah who worked as Badli filler (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents M/s. Singareni Collieries Company Ltd., seeking for declaring proceeding No. SRP(P)/P(IR)/35/97/2122 dated 23.8.1997 issued by Respondent No.1 as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. The averments made in the petition in brief are as follows:

The Petitioner was appointed as Badli Filler on 16.12.1989 on compassionate grounds and subsequently confirmed as Coal Filler. The Petitioner was regular to his duties. But from the year 1996 onwards, the Petitioner suffered ill-health and other family problems. While the matter stood thus, a charge sheet dated 7.5.1997 was issued to him by the Respondents alleging that the Petitioner absented from duty during the year 1996, which amounts to misconduct under company's Standing Order No.25.25. Subsequently, one inquiry was conducted and during the time of the enquiry, the Petitioner was not given any opportunity much less valid in nature to put forth his grievances. Basing on such lopsided enquiry, the Enquiry Officer held the charges as proved and basing on the erroneous findings of the Enquiry Officer, the Petitioner was dismissed from service vide order No. SRP(P)/P(IR)/35/97/2122 dated 23.8.1997. It is stated that during the course of the enquiry the Petitioner has categorically stated that his inability to perform his duties regularly during the year 1996 was only on account of his ill-health and other family problems. But without considering any of his submissions, the Petitioner was dismissed from service. It is also stated that the action of the Respondents management in dismissing the Petitioner from service is wholly illegal, arbitrary, violative of the principles of natural justice. The Petitioner has rendered seven years of continuous service in the Respondents' management. The Petitioner approached the Respondents to consider his case sympathetically, but the management did not pay any heed to it. Therefore, the Petitioner was constrained to approach this Tribunal to declare the impugned order No.SRP(P)/P(IR)/35/97/2122 dated 23.8.1997 issued by the Respondents is illegal and arbitrary and to set aside the same and consequently to direct the Respondents to reinstate the Petitioner into service duly granting all other attendant benefits such as continuity of service, back wages etc..

3. The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows:

In the counter the Respondents while admitting some of the factual aspects to be true, stated that the Petitioner was appointed in the Respondents' company on 19.12.1989 as Badli Filler and confirmed subsequently as Coal Filler. He was dismissed from service on proved charges of absenteeism, after conducting a detailed domestic enquiry duly following the principles of natural justice. The Petitioner has attended the enquiry dated fixed and had fully participated in the enquiry. He was given full, fair and reasonable opportunity to defend himself in the enquiry. The enquiry was conducted strictly following the principles of natural justice. It is stated that basing on the evidence adduced before the Enquiry Officer, the Enquiry Officer submitted his report holding the charges levelled against the Petitioner was proved. A copy of the enquiry report and the enquiry proceeding was sent to the Petitioner by way of show cause notice giving him an opportunity to make representation against the findings of the enquiry report; since the charge levelled against the Petitioner is proved and it was serious in nature, punishment warranted was dismissal from service. The Disciplinary Authority has gone through the enquiry proceeding and his past record and found that there was no extenuating circumstances to take a lenient view and lastly, the Respondent was constrained to dismiss the Petitioner from service. It is stated that in fact the Petitioner was irregular to his duties and he did not improve his attendance even after issuing charge sheet to him, and after receiving the show cause notice. It is further stated that the punishment imposed on the Petitioner is justified and legal and as such the claim petition is liable to be dismissed in limini.

4. In view of the memo filed by the Learned Counsel for the Petitioner admitting the validity of the domestic enquiry to be legal and valid, the domestic enquiry conducted in the present case is held as legal and valid vide order dated 27.10.2016.

5. Both the parties have advanced their arguments under Sec.11(A) of the Industrial Disputes Act, 1947, in support of their claim.

6. In view of the above facts, the points for determination are:

I. Whether the action of the management of M/s. Singareni Collieries Company Ltd., in imposing the punishment of dismissal from service to Sri Neduri Saraiah is legal and justified?

II. Whether the Petitioner is entitled for reinstatement into service?

III. If not, to what other relief he is entitled?

7. **Point No.I:** During the course of argument, the Learned Counsel appearing on behalf of the Petitioner submitted that due to illness and family problems, the Petitioner could not be able to attend his duty sincerely. Even in his show cause the Petitioner has mentioned the above fact but it has not been considered during the course of the enquiry and on account of absenteeism capital punishment of dismissal from service was imposed on the Petitioner. When the Petitioner has taken a stand that due to his illness, and other family problems he could not be able to attend his duties regularly and remained absent, the authority should have considered his case while imposing punishment. The authority has not considered any of the submissions of the Petitioner, and has given capital punishment to the Petitioner when several modes of punishment are enumerated in the company's Standing Orders.

8. On the other hand, the Learned Counsel appearing on behalf of the Respondents submitted that when the Petitioner was a chronic absentee and was found guilty in the charges levelled against him, the punishment imposed by the Respondents' company is legal and proper. When the Petitioner was not sincere in his duty and failed to maintain minimum musters in a year he is not entitled to be reinstated in service.

9. Admittedly, working in the Mines is hazardous and remaining absent is not unusual. In this case, due to his illness and other family problems, the Petitioner could not be able to be regular in his duty, the Petitioner has remained absent in his duties and a proceeding was initiated against him for his absenteeism followed by an enquiry. In the enquiry, the charges levelled against the Petitioner were proved. For this, capital punishment was imposed. After dismissal of service, the Petitioner has become jobless and unable to provide a square meal to his family members. He has already realised his mistake and has taken shelter in the court at the age of 35 years, he is now aged about 45 years and is searching ways and means to provide bread and butter to his family members. When the Petitioner being an able bodied and energetic man has already realised his mistake and is coming forward to work under the Respondents, atleast one chance should be given to him for reinstatement into service. Admittedly several modes of punishment are enumerated in company's Standing Orders. The Petitioner is a first offender and has worked for more than seven years under the Respondent. While imposing capital punishment to his employees, the management should think of the condition of the workers as well as his family members. In this case, the punishment imposed by the Respondents for dismissal of service is too harsh. Therefore, it can safely be stated that the action taken by the management in imposing the punishment of dismissal from service to Sri Neduri Saraiah is not legal and justified.

Thus, Point No.I is answered accordingly.

10. **Point Nos. II & III:** In Point No.I, it has already been discussed that the punishment of dismissal from service to Sri Neduri Saraiah is not legal and justified. After dismissal of service as stated earlier, when the Petitioner has already realised his mistake and has come to the court with a prayer for reinstatement into service he should be given a chance to serve for his family members. After dismissal of service the Petitioner has become jobless and he being the sole bread earner of his family, is unable to provide a square meal to his family members. In such a circumstances atleast the Petitioner should be given a chance to maintain his livelihood and to work under the Respondents' management. But in this case, the Petitioner has not come to the court soon after his dismissal of service. In the opinion of this Tribunal the Petitioner is not entitled to get all the relief as claimed in his claim petition. But he is only entitled to be given a chance to work in the Respondents' management.

Thus, Point Nos. II & III are answered accordingly.

ORDER

Proceeding No. SRP(P)/P(IR)/35/97/2122 dated 23.8.1997 issued by Respondent No.1 is declared as illegal and is hereby set aside. It is ordered that the workman Sri Neduri Saraiah be taken into service as a fresh employee i.e., Badli filler in Cat.I, on initial basic pay without back wages and continuity of service, subject to medical fitness by the company Medical Board and the workman be kept under probation for a period of one year. The management is also directed to take an undertaking of good behaviour from the workman at the time of his posting.

The Workman can not claim for his posting in the same place, where he was last employed. The workman shall have to maintain either minimum mandatory 20 musters every month or 190 musters in a year and the management shall have the right to review the work of the workman in every three months. In the event of any short fall of attendance during the period of the three months, the service of the workman will not be terminated and he will be cautioned to improve his performance by issuing him a warning letter. However, in the event of any shortfall of attendance during one year of service of the workman, he will be terminated from service without any further notice and enquiry. The management shall consider any forced absenteeism on account of Mine accidents/ Natural disasters, taking treatment in the company's hospital, as attendance. All other usual terms and conditions of appointment will be applicable i.e., transfer, hours of work, day of rest, holidays etc.. to the workman for appointment afresh.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 16th day of February, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

NIL

Witnesses examined for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 16 मार्च, 2017

का.आ. 800.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 215/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 15.03.2017 को प्राप्त हुआ था।

[सं. एल-22012/292/96-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 16th March, 2017

S.O. 800.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 215/97) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfields Limited, and their workmen, received by the Central Government on 15.03.2017.

[No. L-22012/292/96-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR
No. CGIT/LC/R/215/97

Secretary,
 RKKMS(INTUC),
 Sub Divisional Office,
 Distt. Chhindwara(MP)

...Workman

Versus

General Manager,
 Western Coalfields Limited,
 Kanhan Area, PO Dungaria,
 Distt. Chhindwara (MP)

...Management

AWARD

Passed on this 30th day of January 2017

1. As per letter dated 22-7-91 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/292/96-IR(C-II). The dispute under reference relates to:
 "Whether the action of the management of Rakhikol Colliery, WCL, Kanhan Area in demoting Shri K.C.Saxena from the post of Clerk Grade II to clerk Grade III and also in fixing his basic wages at the minimum of clerk grade III w.e.f. 30-12-90 is legal and justified? If not, to what relief is the workman entitled and from which date?"
2. After receiving reference, notices were issued to the parties. Workman filed statement of claim at Page 3/ to 3/8. Case of Ist party is that he was initially appointed in post of General Mazdoor at Ambara colliery of WCL in 1975. Looking to his honesty and devotion, he was considered for promotion by DPC. He was promoted to Clerk Grade III in 1978 and post of Clerk Grade II in 1980. He was transferred to Rakhikol colliery in 1988 as clerk Grade II. While he was posted at Rakhikol colliery, one M.J.S.Panigrahi posted as Assistant Account Officer entered in his room on 11-11-90 around 4.15 PM and while interfering in general discussions going on between workman and other employee, M.S.Panigrahi started misbehaving with the workman using filthy language, he had assaulted workman. Workman had taken injection one hour before the incident. Ist party workman further submits that he had reported matter to Disciplinary Authority. However incident taking action against M.S.Panigrahi chargesheet was falsely implicated to him alleging that the workman misbehaved with Panigrahi and assaulted him. The entire matter was concocted at instigation of the Officers Association of WCL. Workman further contends that he was falsely implicated issuing chargesheet dated 11-11-90. Workman was suspended on 12-11-90. The chargesheet was issued before preliminary enquiry by the department. It is contended that on 15-11-90, Union sent letter to General Manager alleging that the workman was falsely implicated. Shri S.K.Dubey was appointed Enquiry Officer. Order of suspension was revoked. Enquiry was fixed on 19-11-90, 21-11-90. Enquiry Officer permitted Deshpade to participate as Defence Assistant for workman. On 25-11-90, workman along with Defence Assistant appeared, enquiry was adjourned on their request to 1-12-90. Thereafter enquiry was fixed for some other date. On 30-11-90, M.S.Panigrahi withdrawn his complaint vide letter dated 27-11-90. Enquiry was not conducted further. As per order dated 28-8-90, punishment of demotion/ reversion to clerk Grade III was imposed. Ist party workman reiterates that no departmental enquiry was conducted, statement of any witnesses was not recorded, no defence witnesses were examined. Enquiry was not properly conducted, punishment of demotion imposed against him is illegal. The findings of Enquiry Officer are perverse. On such ground, Ist party prays for setting aside order of punishment.
3. 2nd party filed Written Statement opposing claim of workman. 2nd party management submits that workman was initially working as general mazdoor. Since around 1975, he was promoted to Clerk Grade III in 1978. He was transferred to Ambara colliery in 1988. Workman committed gross misconduct of fraud therefore chargesheet was issued to him on 8-2-84. Charges alleged against workman was working putting his signature in Attendance Register in January to March 1984 against weekly rest days making overwriting in the attendance claiming payments for rest days etc. the misconduct alleged against workman, theft/ fraud or dishonesty in connection with employees business or property under clause 18(1)(A) and 18(1)(C). workman submitted reply to chargesheet denying charges against him. The reply was found unsatisfactory. Shri J.D.Jindal was appointed as Enquiry

Officer. Shri N.C.Qureshi Manager, VTC Surki Colliery was appointed as representative of management. Enquiry was conducted on various dates shown in Para 7 of Written Statement. Workman did not attend Enquiry Proceeding. Enquiry was proceeded ex parte. Statement of witnesses N.C.Qureshi, Shiv Parsan, Prabhu ram, S.N.Jena were recorded. The documents were produced by management representative were admitted in Enquiry Proceedings. Enquiry Officer submitted his report holding workman guilty. The punishment of dismissal was proposed against workman. However showing leniency, punishment of demotion workman from Grade II to Grade III clerk was imposed. The mercy appeal filed by workman was considered on humanitarian ground. Since 1-1-990, Ist party workman is working on post of clerk Grade II. 2nd party submits that reference be answered in his favour.

4. By amendment, 2nd party submits that apart from chargesheet was issued on 8-2-84, workman was issued chargesheet dated 11-11-90. Workman filed reply to the chargesheet denying the charges, reply was found unsatisfactory. Shri S.K.Dubey was appointed as Enquiry Officer, Pradeep Bannerjee was appointed as management representative. Workman did not take assistance of co-worker Deshpande. On 11-11-90, workman begged apology from Shri Panigrahi, further he assured that he will not repeat such misconduct in future. Workman accepted charges against him, enquiry was declared complete. Punishment of reversion from Clerk Grade II to Clerk Grade III was imposed vide order dated 5-2-90. 2nd party reiterates that reference be answered in its favour.
5. As per order dated 29-3-16, enquiry conducted against workman was found legal.
6. Considering pleadings on record and findings on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of demotion imposed against workman is proper and legal?	In Affirmative
(iii) If so, to what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. Point No.1,2- Enquiry conducted against workman is found legal vide order dated 29-3-2016 whether misconduct alleged against workman are proved from evidence in enquiry needs to be decided from evidence in Enquiry Proceedings. Documents of Enquiry Proceedings are produced at Exhibit M-1,2,3 including the finding submitted by Enquiry Officer. Charge Exhibit M-1 was issued to workman on 8-12-84 pertains to workman had committed act of overwriting the rest days and total attendance days in 5th, 12th, 19th, 26th January 1984 2nd, 9th, 16th, 23rd Feb 1984, 8th, 22nd March 1984 as such committed fraudulent act. Reply Exhibit W-2 workman had denied charges against him. In Enquiry Proceedings, statements of Shri N.C.Qureshi Manager VTC, Shiv Parsan Chowkidar, Shri Prabhuram Chowkidar, Shri S.N.Jena Expart time VTC Manager were recorded. As per statement of management's representative Shri N.C.Qureshi, workman had committed overwriting in attendance as stated above and submitted bill for all those days claiming amount of Rs.1407.89. All the witnesses of management were extensively cross examined. Evidence of the witnesses of management is not shattered in their cross examination to extent to disbelieve evidence of all management witnesses. I donot find reason to re-appreciate evidence of management's witness Enquiry Officer in his report has narrated evidence of management's witness in detail. The findings of Enquiry Officer are supported by evidence of management's witnesses. The findings recorded by Enquiry Officer cannot be said perverse. Management has produced chargesheet Exhibit M-3 dated 11-11-90. Charges levbelled against workman are under different clauses 17() of certified standing orders relates to the act of drunkenness, fighting ritous desperate behaviour causing willful damage to work in progress. However the documents of enquiry w.r.t. those charges are not produced. Ist party workman was reverted to Grade III clerk post as per order dated 4-2-90 prior to the chargesheet Exhibit NM-3 dated 11-11-90 was issued. Therefore chargesheet Exhibit M-3 issued to workman is not relevant for deciding the dispute under reference. As discussed above, findings of Enquiry Officer are supported by evidence of management's witnesses and punishment of demotion/ reversion is imposed against workman, punishment of dismissal is not imposed against workman, no interference in punishment is justified. For above reasons, I record my finding in Point No.1,2 in Affirmative.
8. In the result, award is passed as under:-
 - (1) The action of the management of Rakhikol Colliery, WCL, Kanhan Area in demoting Shri K.C.Saxena from the post of Clerk Grade II to clerk Grade III and also in fixing his basic wages at the minimum of clerk grade III w.e.f. 30-12-90 is legal and proper.
 - (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 मार्च, 2017

का.आ. 801.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पारादीप पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 59/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.03.2017 को प्राप्त हुआ था।

[सं. एल-38011/3/2011-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th March, 2017

S.O. 801.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of Port Trust, and their workmen, received by the Central Government on 17.03.2017.

[No. L-38011/3/2011-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present : Shri B.C. RATH, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 59/2012

No. L-38011/3/2011-IR(B-II), dated 23.05.2012

Date of Passing Order – 7th November, 2016

Between :

1. The Chairman,
Paradip Port Trust,
Paradip, Jagatsinghpur (Orissa).
2. The President,
Dumper Owners Association,
Atharbanki, Paradip, Jagatsinghpur (Orissa).
3. The President,
Paradip Stevedores Association,
Trade Centre, Ground Floor,
Paradip, Jagatsinghpur, (Orissa).

...1st Party-Managements

AND

The General Secretary,
Paradip Industrial Workers Union (CITU),
Qrs. No. BA-25, Port Colony, Atharbanki,
Paradip, Jagatsinghpur, (Orissa)

...2nd Party-Union

Appearances:

None. ... For the 1st Party-Managements
None. ... For the 2nd Party-Union

ORDER

None of the parties are found present on repeated calls. It is seen from the record that after filing of Statement of claim the 2nd party-Union failed to attend the proceeding despite repeated notice. The 1st Party-Management has already submitted its written statement. The reference is lingering only due to non-attendance of the 2nd party-Union. As the Union failed to attend the proceeding as well as adduced any evidence in addition to its claim there is no alternative than to pass a no-dispute award and accordingly a no-dispute award is passed in the case.

2. The reference is answered in the above terms.

Dictated & Corrected by me.

B.C. RATH, Presiding Officer

नई दिल्ली, 17 मार्च, 2017

का.आ. 802.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम.एम.टी. सी. लि., रीजिनल आफिस, भुवनेश्वर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 03/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.03.2017 को प्राप्त हुआ था।

[सं. एल-38011/2/2009-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th March, 2017

S.O. 802.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of M/s. MMTC Ltd., Regional Office, Bhubaneswar, and their workmen, received by the Central Government on 17.03.2017.

[No. L-38011/2/2009-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR**

Present : Shri B.C. RATH, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 3/2010**Date of Passing Award – 8th December, 2016****Between:**

1. The General Manager,
M/s. MMTC Ltd., Regional Office,
Alok Bharati Complex, Sahidnagar,
Bhubaneswar (Orissa)
2. The General Manager (MICA),
M/s. MMTC Ltd., Core-1, Scope Complex,
7, Industrial Area, Lodhi Road,
New Delhi – 110 003.

...1st Party-Managements**AND**

The Secretary,
Utkal Port & Dock Workers Union,
H-17, Sramik Bhawan, “V” Point,
Paradip Port, Paradip.

...2nd Party-Union**Appearances:**

Shri Lakshmi Nath, Dy. Manager.	...	For the 1 st Party-Managements
None	...	For the 2 nd Party-Union

AWARD

This award arises out of an adjudication of a dispute under reference with following schedule:-

“Whether the demand of the Union for receiving benefits at par with the workmen of MMTC for grant of 20% PLR, IR benefit and other benefits as available to workman available to MMTC from the date of merger is legal and justified? What relief the workmen are entitled made by the Government of India in the Ministry of Labour in exercising its power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of I.D. Act, 1947 vide their letter No. L-38011/2/2009-IR(B-II), dated 01.02.2010.

2. The dispute raised by the 2nd party-Union as claimed in its statement of claim is that MITCO Trading Corporation of India was set up in the year 1973. It was owned and a hundred percentage subsidiary company of the MMTC. When the said company became sick and it was not economically viable, it was amalgamated with the Management-company with effect from 1.4.1994 under a scheme wherein it has been clearly mentioned that the employees of MITCO will be treated as employees of MMTC after the amalgamation and service condition of MMTC employees would be applicable to them. So far pay scale is concerned they will not claim MMTC scale of pay and their wage will not be no way less favourable to them. After amalgamation the erstwhile employees of MITCO become the employees of MMTC and as such, they are automatically entitled to the pay scale and financial benefit extended to MMTC employees. According to the Union the Management granted certain financial benefits like 20% PLR, IR benefit and 7 grams gold to its employees in the year 2007-2008. But, such benefit was not extended to the erstwhile MITCO employees which is highly illegal and unjustified and such action is not tenable in the eye of law. Hence a dispute was raised giving rise to the reference as mentioned earlier.

3. The Management has refuted the allegations raised by the 2nd party-Union in its statement of claim taking a stand that at the time of alleged amalgamation tripartite settlement was reached and a scheme was drawn whereby the erstwhile employees of MITCO agreed that scales of pay of MMTC employees will not be applied to them and MITCO will operate as an independent profit centre as MICA division of MMTC. It was also agreed that the employees of MICA division will be governed by the service conditions of erstwhile MITCO and they are not covered under the scheme of productivity linked incentive, interim relief and incentive on highest turn-over etc. applicable to the employees of MMTC. It was clarified that those employees of MICA division are not entitled to the benefits at par with the employees of MMTC. In that view of the matter and settlement between the parties the claim raised by the Union is not legal and justified and no relief can be extended to the disputant workmen numbering six.

4. On the aforesaid pleadings of the parties issues like (1) Whether the demand of the Union for receiving benefits at par with the workmen of MMTC for grant of 20% P.L.R., IR benefits and other benefits as available to the workmen available to MMTC from the date of merger is legal and justified? (2) What relief the workmen are entitled to? were settled and parties were invited to adduce their evidence in support of their claim.

5. After filing affidavit evidence of two witnesses under Order 18 Rule 4 C.P.C. the Union defaulted in its appearance for which the affidavit evidence of the witnesses were expunged and the Management filed affidavit evidence of its witness denying the claim of the 2nd party-Union.

6. Filing of claim statement without adducing any evidence to substantiate the claims raised in the statement does not help this Tribunal to adjudicate the dispute between the parties and pass an award. On the other hand the Management has filed affidavit evidence of its witness in support of its pleading advanced in the written statement. As such, the Tribunal has no alternative than to pass a no dispute award.

7. Accordingly the reference is disposed off as per my above observations.

Dictated & Corrected by me.

B.C. RATH, Presiding Officer

. नई दिल्ली, 17 मार्च, 2017

का.आ. 803.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ सं. 2/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.03.2017 को प्राप्त हुआ था।

[सं. एल-12011/109/2007-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 17th March, 2017

S.O. 803.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 17.03.2017.

[No. L-12011/109/2007-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR**

Present: Shri B.C. RATH, Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 2/2008

Date of Passing Award – 14th October, 2016

Between:

The Deputy General Manager,
Indian Bank, Circle Office,
Plot No. 117/118, Station Square,
Bhubaneswar (Orissa) – 751 001.

...1st Party-Management

AND

The General Secretary,
Indian Bank Employees Union,
Plot No. 32, Ashok Nagar,
Bhubaneswar (Orissa) – 751 009.

...2nd Party-Union

Appearances:

Ms. Subhadra Sahu, Asst. Manager.

... For the 1st Party-Management

Shri Jagadish Ch. Jena, Vice-President.

... For the 2nd Party- Union

AWARD

This award arises out of the reference with the following schedule:-

“Whether the termination of Service of Shri A.K. Parida, Ex-Clerk-cum-Shroff by way of dismissal w.e.f. 8.4.2006 on the ground of committing financial irregularities by the management of Indian Bank is legal and/or justified? If not, what relief the workman is entitled to?

Made by the Government of India, Ministry of Labour & Employment between the employers in relation to the Management of Indian Bank and their workman in exercise of the powers conferred by clause (d) of Sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide letter No. L-12011/109/2007 – IR(B-II), dated 23.01.2008.

2. Background facts giving rise to the reference, shortly stated, as follows:-

The workman during his posting as Clerk-cum-Shroff under the Management-Bank in its Oupada Branch was charge-sheeted on 13 counts in a departmental proceeding, wherein he was alleged to have availed advances under sundries receivable II Account for ineligible purposes in different occasions, availed bills purchased facility at Alba Branch of the Management without maintaining sufficient balance in his S.B. Account, issued certain pay orders without maintaining sufficient balance in his S.B. Account, withdrawn amount in shape of cash instead of consumer items against sanction of loan for purchasing consumer durable items and thereby mis-utilized the C.C.I.L. facility extended by the Management-Bank to its employees, availed festival advance twice in a calendar year against the norm of availing once for the purpose, paid installment of such festival advance in late, failed to disclose his relationship with two borrowers of his branch and with-held the disbursement of loan amount to the S.B. Account of the borrowers, promoted loan to different persons and defaulted in payment of such sanctioned loan to the loanees against whom loans were sanctioned and with-held the repayment to square-off the loan accounts though the loanees paid him the cash. The workman faced the departmental enquiry initiated by the Management-Bank. He was furnished with all the papers and documents on the basis of which he was charge-sheeted. Explanation was called for from the workman prior to issue of the charge-sheet on 31.8.1998. As he failed to submit any explanation as well as to the charge-sheet, the departmental enquiry was ordered and the same was conducted in between 28.4.1999 to 24.1.2002 and departmental enquiry was duly attended by him. After completion of enquiry the enquiry report was submitted to the disciplinary authority with a copy of the findings of the report to the workman. The workman is stated to have called upon to submit his show cause on the findings of the enquiry report. He also submitted his explanation denying the findings and he was also given a personal hearing in the matter of punishment likely to be imposed upon him. After considering the enquiry report and explanations submitted by the workman the Management imposed the punishment of dismissal against which the workman had raised an appeal, which was also dismissed. Hence a dispute was raised through the Union before the labour machinery resulting in the present reference.

3. The 2nd party-Union in its claim statement has alleged that the charge-sheet, the enquiring proceeding, the enquiry report, the order of the disciplinary authority and the order of the appellate authority are infested with gross illegalities and irregularities rendering failure of justice and as a consequence thereof the workman has been illegally dismissed from service. The enquiry was held violating the principles of natural justice and the enquiry was not conducted with conformity to the rules and guidelines as enunciated in the Certified Standing Order/Regulation of the Management. The documents were admitted and taken into consideration by the Enquiring Officer without the same being duly and formally proved. Though the loan and advances have been properly sanctioned by the superior authority of the delinquent workman, the same were repaid and there was no monetary loss to the Management-Bank, the findings of the Enquiring Officer holding the delinquent workman guilty of serious misconduct is apparently perverse to the evidence led before him and as such the holding of delinquent guilty of serious misconduct is not maintainable in the eye of law. It has also been alleged that neither the enquiry officer, disciplinary authority nor the appellate authority had properly evaluated the evidence adduced in the enquiry proceeding as a result of which a wrong conclusion contrary to the evidence emerging in the enquiry was drawn and the workman was dismissed illegally. Challenging the dismissal of the delinquent workman prayer has been made for his reinstatement with all back wages and all consequential service benefits.

4. In its written statement the Management-Bank has denied all the allegations raised by the 2nd party-Union and it is submitted that no principle of natural justice was violated in the departmental enquiry preceded to the dismissal of the workman. He was afforded with all opportunities to defend himself in the departmental enquiry and the enquiry officer conducted the enquiry proceeding following the procedures laid down in the Certified Standing Order/Regulation of the Bank. Evidence led before him was properly assessed and evaluated by him and the workman was extended opportunities to submit his show cause on the findings of the enquiry officer. He was given personal hearing before imposition of the punishment of dismissal. It has been pleaded by the Management that the delinquent workman having been held guilty of serious misconduct no illegality seems to have been committed in dismissing the workman.

5. On the aforesaid pleadings of the parties following issues were framed.

ISSUES

1. Whether the reference is maintainable?
2. Whether the Domestic Enquiry conducted by the Management was fair and proper?
3. Whether the punishment by way of dismissal imposed on the disputant was proportionate to the charges?
4. If not, what relief the disputant is entitled to?

6. The 2nd party-Union has examined the workman Shri Akshaya Kumar Parida and exhibited documents like suspension order dated 9.7.1998, charge-sheet dated 31.8.1998, enquiry proceeding dated 4.11.2000, enquiry proceeding dated 25.1.2001, enquiry proceeding dated 15.5.2001, enquiry report dated 28.1.2001, representation of the charge-sheeted employee against the enquiry report dated 21.8.2002, show cause notice on the punishment dated 14.10.2005, written submission of workman to the disciplinary authority dated 31.12.2005, order of punishment dated 8.4.2006, appeal petition of the workman dated 20.5.2006, order of rejection of appeal dated 2.8.2006 from Ext.-1 to Ext.-12 whereas, the Management has examined its Chief Manager, Sailshree Vihar Branch and Senior Manager, Cuttack Shri Damodar Sahoo and Shri Himansu Mohan Pradhan respectively and no document is exhibited by the Management.

ISSUE NO. 2

7. This issue being related to the fairness of the departmental enquiry preceded to the dismissal of the workman is very vital for adjudication of the reference for which the same is taken first for consideration before going to other issues.

8. The fairness of the departmental enquiry has been challenged on two counts for having violated the principles of natural justice on account of the workman being not provided due opportunity to defend himself in the domestic enquiry and the findings being perverse and unjustified against the materials/evidence led before the enquiry officer. It has been contended on behalf of the workman that he was not furnished with all documents and list of witnesses either at the time of issue of charge-sheet or on the date of commencement of the proceeding so as to enable him to prepare his defence. Admittedly oral evidence of the witnesses examined on behalf of the management as well as workman is silent in this regard. There is no serious dispute that the delinquent and his representative had attended and actively participated in the enquiry proceeding. But, close reading of the documents exhibited by the parties including the copies of the enquiry proceeding reveals that a large number of documents were exhibited on behalf of the Management which were marked as Exhibits as Mex.-1 to Mex.-79. Copies of those documents were furnished after the same were exhibited before the enquiry officer. Two witnesses were examined before the enquiry officer without copy of the list of witnesses being supplied to the delinquent workman. Furthermore, enquiry officer seems to have put leading questions to the departmental witnesses while they are being examined on behalf of the Management in presence of Marshalling Officer/I.A. Hence, in the above back-drops the allegation of the 2nd party-workman that he was not extended due opportunities on account of not being provided with copies of documents and list of witnesses

much sufficient ahead of the commencement of the departmental enquiry cannot be lightly brushed aside. That apart, a mere reading of statement of management witnesses examined before the enquiry officer and more particularly the answers given by the managerial witness No. 2 to the questions put-forth by the defence representative it is seen that all advances sanctioned in favour of the workman was made by the Branch Manager in the capacity of sanctioning authority. Loans allegedly advanced to the relatives of the delinquent workman were also sanctioned by the said Branch Manager. The witness had admitted before the enquiry officer that most of the documents relating to those advances and credit facility were signed by the then Branch Manager. It appears from the statement of the said witness as well as his evidence before this Tribunal that Branch Manager was the sanctioning authority of the loans and advances for which charge-sheet was issued against the workman and the workman had no role in the alleged sanction of the advances and loans. Advances availed by the workman in different categories seem to have been extended to the Bank employees, but on certain terms and conditions and eligibility. Be that as it may be sanctioning authority is mostly responsible for such advances to ineligible employees then the employee applying for such advances. Though a large number of documents were exhibited before the enquiry officer nothing seems to have been stated as to how the workman was involved in creation/execution of documents for sanctioning of the advances and loans. Neither of them stated that the workman ineligible for those advances or how he had violated the terms and conditions of advances sanctioned in his favour or he was ineligible for availing of such facilities. No substantial materials had been produced before the enquiry officer to conclude that two persons namely Dharmendra Parida and Kishore Parida to whom loans were sanctioned in the branch Bank of the workman were close relative of the workman. M.W.-2 had categorically admitted before enquiring officer that loans were sanctioned to them by the then Branch Manager and there was no financial loss to the Management on account of full recovery of the advances. Having regard to the above facts and circumstances it can safely be concluded that the findings of the enquiring officer is not in consonance with the evidence/materials produced before him and as such his findings holding the workman guilty of serious misconduct can be said perverse and unjustified. Thus, there was a violation of principle of natural justice in the departmental enquiry as against the workman and as such the same is defective. Accordingly this issue is answered against the 1st Party-Management.

ISSUE NO. 1, 3 & 4

9. All the issues are related to each other as such they are taken together for analysis and discussion for the sake of convenience.

It is pertinent to mention here that the Management has neither made any prayer in its written statement nor during adjudication of the reference that fairness of the departmental proceeding be heard as a preliminary issue and in case the same is answered in favour of the workman it would be afforded opportunity to prove the alleged misconduct of the workman in the present adjudication. No prayer has been ever made during the adjudication of the reference even in the written argument submitted by the Management that further opportunity shall be afforded to the Management to adduce further evidence to prove the misconduct in case the departmental enquiry is found defective. On the other hand evidence and argument seems to have been advanced on behalf of the Management on all issues for final adjudication of the reference instead of deciding the case in piece-meal. In that view of the matter it shall be presumed that the Management has nothing more to adduce in evidence to prove the misconduct of the workman.

10. Further, for argument sake if it is accepted that charges against the workman were proved in the departmental enquiry it is emerging that no financial loss was incurred to the Management-Bank as the loan and advances were duly recovered as per the admission of Management Witnesses. It seems that being an employee the workman is entitled to the advances and facilities for which he being charge-sheeted on account of failing to observe the terms and conditions to avail such facilities. Those advances and loans were sanctioned by the Branch Manager. Even if it is accepted that he failed to fulfilled the conditions, the loans and advances availed by him can be termed as irregularities. If the above aspects are taken into consideration the punishment of dismissal also appears to be disproportionate to the magnitude of the misconduct allegedly committed by the delinquent. That apart, the departmental enquiry being found defective, dismissal of the workman cannot also be sustainable in the eye of law. In the above back-drops the dismissal of the workman is not apparently legal and justified.

11. Coming to the point/issue of relief to which the workman is entitled to, it is seen that he was dismissed from service with effect from 08.04.2006 and there is no evidence or materials to suggest that he was gainfully employed during the period of his dismissal. At the same time it cannot be over-sighted that he has not rendered any service to the Management-Bank for the above period. In the meanwhile he has attained the age of superannuation and as such no direction can be given for his reinstatement. Keeping the above facts in view it would be just and appropriate to direct the Management-Bank to pay 50% of his entitled wages from the date of his dismissal to the date of his superannuation along with other consequential service benefits to which he is entitled to had he been continued into service.

12. Reference is answered accordingly.

Dictated & Corrected by me.

B.C. RATH, Presiding Officer

शुद्धिपत्र

नई दिल्ली, 21 मार्च, 2017

का.आ. 804.— भारत के राजपत्र संख्या ॥ का.आ-1132॥ 23, भाग-II, खंड-3, उप खंड-II दिनांक 29.05.2016-04.06.2016 में प्रकाशित इस कार्यालय की समसंख्यक अधिसूचना के पृष्ठ संख्या. 2521 एवं 2522 में उल्लिखित जिलों का नाम निम्नानुसार पढ़ा जाए:-

	jkti = ea vfd r ftys dk uke	ftys dk l gh uke
1.	भद्रक	भद्रक
2.	बालेश्वर	बालेश्वर
3.	खुर्दा	खोर्द्दा
4.	बलांगीर	बलांगीर
5.	क्योँझर	केंदुझर
6.	सोनपुर	सुवर्णपुर

[सं. एस-38013/23/2016-एस.एस-1)]

अजय मलिक, अवर सचिव

CORRIGENDUM

New Delhi, the 21st March, 2017

S.O. 804.— In this Ministry notification of even number dated 30th May, 2016 (S.O.No.1132), published in the Gazette of India No.23, Part-II, Section-3, Sub-Section (ii) dated 29, June 2016 -04 June, 2016 at page number 2521 & 2522, name of following districts mentioned therein may be read as under:-

S.No.	Name of the district printed in the Gazette Notification	Correct name of the district
1.	Keonjhaar	Kendujhar
2.	Balasore	Baleswar
3.	Khurda	Khordha
4.	Bolangir	Balangir
5.	Bhadark	Bhadrak
6.	Sonepur	Subarnapur

[No. S-38013/23/2016-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 21 मार्च, 2017

का.आ. 805.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एचमिष्ट एविएशन प्रा. लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, दिल्ली के पंचाट (संदर्भ सं. 149/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-11012/47/2015-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 805.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Delhi (I.D. No. 149 of 2016) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Alchemist Aviation (P) Ltd. and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-11012/47/2015-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No.149/2016

The General Secretary,
United Mineral Workers Union,
At & PO Chakradharpur,
District Singhbhum (W),
Jharkhand – 833102

...Workman

Versus

The Director,
Alchemist Aviation (P) Ltd.
Building NO.23, Alchemist House,
Nehru Place, New Delhi - 110 019

...Management

AWARD

Central Government, vide letter No.L-11012/47/2015-IR(CM-I) dated 16.08.2016, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s Alchemist Aviation Pvt. Ltd, New Delhi in terminating the services of 19 workmen (as per Annexure I) without following the provisions of Section 25F of the ID Act, 1947 is legal and justified? If not, to what relief the workmen are entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, the claimant union opted not to file their claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the claimant union as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant union. Despite service of the notice, the claimant union opted to abstain away from the proceedings. No claim statement was filed on their behalf. Thus, it was clear that the claimant union was not interested in adjudication of the reference on merits.

4. Since the claimant union neither put in their appearance nor did they lead any evidence so as to prove their cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

Dated : January 23, 2017

नई दिल्ली, 21 मार्च, 2017

का.आ. 806.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 28/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/99/1988-डी-4ए-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 806.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 28 of 1996) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/99/1988-D-4A-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference No. 28/1996

Employer in relation to the management of Bastacola Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 19/01/2017

AWARD

By order No. L-20012/99/1988-D-4A-IR(C-I) dated 12/7/1996, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand for regularization, by the Union, of S/Sh. Baijnath Paswan and 22 others (as per list enclosed) by the management of Bastacola Area No. IX of M/S.BCCL is justified? If so, to what relief are these workmen entitled and from which date?”

Annexure

List of workmen

- | | |
|---------------------|-----------------------|
| 1. Baijnath Paswan | 2. Bisho Paswan |
| 3. Sahudeo Paswan | 4. Ramkhelawan Paswan |
| 5. Basant Paswan | 6. Bharat Paswan |
| 7. Loha Paswan | 8. Kameshwar Paswan |
| 9. Ramswarup Paswan | 10. Lakhan Paswan |

11. Yugeshwar Paswan	12. Rajindra Paswan
13. Bholu Paswan	14. Rejender Paswan
15. Shiv Paswan	16. Anandi Paswan.
17. Raghunandan paswan	18. Arjun Paswan
19. Ganesh Paswan	20. Bano Paswan
21. Mathura Paswan	22. Kedar Paswan
23. Sohan PaswanGua	

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 807.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 59/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/178/1994-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 807.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 59 of 1995) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/178/1994-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 59/1995

Employer in relation to the management of Block II Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 18/01/2017

AWARD

By order No. L-20012/178/1994-IR(C-I) dated 12/06/1995, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of Chief General manager, Block II Area of M/s BCCL, P.O. Nawagarh (Dhanbad) in denying to Promote S/Shri Birendra kumar and 16 others (as per Annexure below) Greaser/ Fitter in Grade ‘D’ and Subsequent Grade ‘C’ is justified? If not, to what relief are the concerned workmen entitled?”

ANNEXURE

SL.No	Name	SL.No	Name
1	Shri Brendra kumar	10	Shri Willium Topno
2	Shri Ramadhar Singh	11	Shri Mahendra Gahalaut
3	Shri Satyadeo Prasad	12	Shri Augustine Orea
4	Shri Manmohan Prasad	13	Shri Ashok Kumar Shiva
5	Shri Parmanand Kumar	14	Shri Brijkishore Prasad
6	Shri Janki Ram	15	Shri Mahesh Pd. Singh
7	Shri Shiv Kumar Ram	16	Shri Motilal Prasad
8	Shri Umesh Pd. Sinha	17	Shri Kameshwar Rawani
9	Shri Basudeo Yadav		

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 808.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 68/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/265/1994-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 808.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 68 of 1995) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/265/1994-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 68/1995

Employer in relation to the management of Godhur Colliery of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 17/01/2017

AWARD

By order No. L-20012/265/1994-IR(C-I) dated 21/06/1995, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/s BCCL Area No. VI in relation to Godhur Colliery in not regularizing workman, Upendra Rawani in Clerical Grade- III w.e.f. 17/12/1990 is justified? If not, to what relief the workman concerned is entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 809.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 102/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/361/1995-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 809.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 102 of 1996) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/361/1995-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 102/1996

Employer in relation to the management of Amlabad Colliery of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri U.N. Lal, Advocate

For the workman : Shri S.C. Gour, Advocate

State : Jharkhand

Industry : Coal

Dated : 16/02/2017

AWARD

By order No. L-20012/361/ 1995/IR (B-1)) dated 07/11/1996, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of regularization of Shri Bhagwan Das Rawani as night Guard by the for issuing uniform with other facilities is legal and justified? If so, to what relief is the workman entitled?”

2. After receipt of the reference , both parties are noticed. But appearing for certain dates, Bur Ld Counsel for the workman submits that workman is not interested. to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 810.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 04/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/424/1997-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 810.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 04 of 1999) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/424/1997-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 04/1999

Employer in relation to the management of North Tisra Colliery of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri U.N. Lall, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 16/01/2017

AWARD

By order No. L-20012/424/1997-IR(C-I) dated 08/01/1999, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of North Tisra Colliery of M/s BCCL in dismissing Sh. Rajendra Mallik from the service of the company w.e.f. 01/07/1993 is justified? If not, to what relief the workman is entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 811.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डीवीसी बीरमो माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 16/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/214/1998-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 811.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 16 of 1999) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. DVC Bermo Mines and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/214/1998-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 16/1999

Employer in relation to the management of DVC Bermo Mines

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : Shri V.R. Behra, Dy. Director (HR)

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 20/01/2017

AWARD

By order No. L-20012 /214/1998-IR(CM-1) dated 29/01/1999, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of the D.V.C Bermo Mines, P.O-Bermo, Distt- Bokaro by re-designating Sri Ram Govind Singh colony water supply incharge as foreman (Mech) Gr.B ignoring the claim of sri Sant Ram , Astt. Foreman Gr.C for promotion to the post of Foreman (Mech) Gr.B is justified? If not , what relief Sri Sant Ram is entitled ?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates by the workman, none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 812.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 98/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/327/1995-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 812.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 98 of 1996) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/327/1995-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 98/1996

Employer in relation to the management of Govindpur Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : None

For the workman : Shri S.C. Gour, Advocate

State : Jharkhand

Industry : Coal

Dated : 19/01/2017

AWARD

By order No. L-12012 /327 /95/IR (C-I) dated 01.11.1996, the Central Government in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section(1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the demand by the union for employment of Smt. Chapli Devi widow of Late Basu Bauri, Ex-Badli Miner Loader as per NCWA provision is legal and justified? If so, to what relief is the widow entitled?”

2. This Case is received from the Ministry on 18.11.1996. After receipt of the reference, both parties are noticed. During the pendency of the case Ld. Counsel of the sponsoring Union submits that workman is not interested to contest the case. It is felt that the dispute between parties is resolved. Hence “No dispute” award is passed. communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 813.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 44/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/87/2015-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 813.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 44 of 2015) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/87/2015-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 44/2015

Employer in relation to the management of Govindpur Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri U.N. Lall, Advocate

For the workman : Shri S.K. Sinha, Advocate

State : Jharkhand

Industry : Coal

Dated : 23/01/2017

AWARD

By order No.-L-20012/87/2015/ IR-(CM-I), dated. 17/09/2015 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Govindpur Area of M/S BCCL in dismissing Sri Ranjit Bouri from the service vide office order dated 24/26.04.2007 is fair and justified? To what relief the concerned workman entitled to?”

2. The case is received from the Ministry of Labour on 01.10.2015 After receipt of reference , both parties are noticed. The Sponsoring Union files their written statement on 09.12.2015. The management files their written statement -cum-rejoinder on 03.05.2016. Thereafter rejoinder and document filed by both side. The point involved in the reference is that the workman has been dismissed from his services on long absentism.
3. During preliminary hearing of this case, domestic enquiry held by the management is accepted by the Sponsoring Union/workman as Fair & Proper . Thereafter documents of the management is marked as M-1 to M-7 as well as document of workman is also marked as W-1 & W-2.
4. The point involved in the reference is that the workman has been dismissed from his services on the ground of long absence. But he has already out of service for 10 years aprox. It is felt to give another chance to the workman to serve.
5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee in Cat-1. But the workman be kept under probation for a period two year. Therefore the question of back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 814.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 04/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/143/2014-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 814.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 04 of 2015) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/143/2014-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 04/2015

Employer in relation to the management of Kusunda Area of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the workman : Shri R.R. Ram, Rep.

State : Jharkhand

Industry : Coal

Dated : 20/01/2017

AWARD

By order No.-L-20012/143/2014 IR-(CM-I), dated. 08/01/2015 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub –Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“ Whether the action of the management of Godhur Colliery under Kusunda Area M/S BCCL in not allowing Shri Suresh Bhuia to resume his duty till date is fair and justified? If not, to what relief the concerned workman is entitled ?”

2. The case is received from the Ministry of Labour on 28.01.2015 After receipt of reference , both parties are noticed. The Sponsoring Union files their written statement on 29.04.2015. But after long delay, the management files their written statement -cum-rejoinder on 17.03.2016. Thereafter rejoinder and document filed by both side. The point involved in the reference is that the workman has been dismissed from his services on absentism.
3. Workman himself examined as witness one document of management is marked as M-1.
4. The point involved in the reference is that the workman has been neither dismissed from his services on the ground of long absence nor terminated. . He was sick from 03.08.2007 to 20.08.2007. But did not join his job in time, and he absented from his duty. Thereafter the management has not allowed him to resume his duty.
5. During preliminary hearing it is revealed that the case is dismissal of workmen for long absence. But he has already out of service for 10 years. It is felt to give another chance to the workman to serve .
6. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee as general mazdoor. But the workman be kept under probation for a period two years. Therefore the question of giving back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 815.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 49/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/58/2009-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 815.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 49 of 2009) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/58/2009-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 49/2009

Employer in relation to the management of Patherdih Coal Washery of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri U.N. Lall, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 16/02/2017

AWARD

By order No. L-20012/58/ 2009 /IR (CM-1)) dated 18/08/2009, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“i) **Whether the demand of the Bihar Colliery Kamgar Union from the management of Paterdih Coal Washery of M/s BCCL to give proper wages/ fitments, increments/ promotion to S/ Shri Sheo Narayan Kahar, Krishna Ballav Paswan And Rajdeo Jaiswara is justified and legal?”**

ii) **To what reliefs are the workmen concerned entitled?”**

2. After receipt of the reference , both parties are noticed. But appearing for certain dates, Ld Counsel for the workman submits that workman is not interested. to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 816.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 35/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/27/2013-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 816.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 35 of 2013) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/27/2013-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 35/2013

Employer in relation to the management of Kargali Washery of M/s. CCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : Shri D.K. Verma, Advocate

For the workman : Shri B.B. Pandey, Advocate

State : Jharkhand

Industry : Coal

Dated : 24/01/2017

AWARD

By order No. L- 20012 /27/2013 /IR (CM-I) dated 22/08/2013, the Central Government in the Ministry of Labour has in exercise of the power conferred by clause (d) of sub – section (1) and sub – section (2A) of section 10 of the Industrial Disputes Act , 1947 referred the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the demand of settlement of anomaly in Basic Pay since Jan. 1977 to Sh. B.K.Ram, Ex-workman of Kargali Washery of M/S CCL is justified or not? What relief the concerned workman is entitled to ?”

2. The case is received from Ministry of Labour on 04.09.2013. The workman files written statement on 05.11.2013. But after long delay, the management files their written statement on 23.12.2014. No witness examined from either side. Documents of the management marked as M-1 to M-9 and documents of workman marked as W-1 to W-10. Thereafter rejoinder filed by both side.

3. The case of the workman is that the concerned workman was appointed as Cat-I Mazdoor at Kargali Washery on 17.05.1974 on the basic of 26 days V.D.A and Sri K.K.Dey & M.N.Gupta was appointed as Security Guard on the basic of 30 days VDA in 1973.

4. It is also submitted by the workman that there was departmental promotion in 1977 of above 3 workmen in LDC vide Office Order dated 10.01.1977 on same scale. It has been specifically mentioned that their service condition will be guided under the wage Board Rules and certified standing order.

5. It is also stated that one Shri S.Thomas was also appointed on 17.05.1974 in category –I mazdoor alongwith concerned workman on the basic of 26 days VDA and later on his pay was fixed on the basic of 30 days VDA alongwith Sri K.K.Dey this is glaring example of discrimination.

5. It is further submitted by the workman that as per NCWA-1 pay fixation was made, while the pay fixation management made vital mistake by fixing the pay scale of Shri K.K.Dey and Shri M.N.Gupta on the basic of 30 days VDA but the concerned workman's pay was fixed on the basic of 26 days VDA as on 1977. Therefore the concerned workman himself and union made various representation to the various authorities at various level on different dates for removing and solving the said anomaly but no effective steps taken at any level in this case as such discriminatory taken by the management, hence Industrial dispute arose.

6. On the other hand the case of the management is that the present dispute was raised after retirement of workman concerned. A Superannuated and retired employee does not come under the definition of workman according to section 2(S) of the Industrial Dispute Act 1947.

7. The management also submitted that the management of CCL issued a circular dated 27.05.1975 and according to the said circular the employee of erstwhile NCDC are concerned inter alia provides that the monthly rated employee of NCDC posted in NCDC units prior to 01.01.1975 would continue to get VDA for all the days of the months even after 01.01.1975 whereas in all other cases the VDA would be payable only for 26 days per month.

8. Shri B.K.Ram was appointed as Category –I Mazdoor (Daily rated) on 17.05.1974 therefore he was entitled for 26 days VDA and after promotion his basic wages was fixed considering 26 days VDA which is correct according to the above circular. Sri M.N.Gupta was appointed as Security Guard (Monthly rated) on 26.06.1973 and Sri K.K.Dey was also appointed as Security Guard (Monthly rated) on 30.10. 1973 whereas Sri B.K.Ram was appointed prior to 01.01.1975 as Cat-I worker(Daily rated) therefore he was entitled for 26 days VDA and Whereas Sri Gupta and Sri Dey having been appointed prior to 01.01.1975 in monthly rated pay scale were entitled to 30 days VDA.

9. It is further submitted by the management that Sri B.K.Ram alongwith Sri K.K.Dey and M.N.Gupta were promoted to the post of LDC , Typist/Clerical Grade-II (monthly rated) by and office order dated 10.01.1977, The pay of B.K.Ram was fixed to Rs. 378/- on 01/01/1978, he was provided one increment and his pay was enhanced to Rs. 396/-.

10. As per fitment chart of NCWA-II (revised) there was two slab of wage fixation for clerical grade-II one for 26 days VDA and other for 30 days VDA. Since Sri B.K.Ram being within the arena of 26 days VDA as such his basic in the post of LDC grade –II (revised) was fixed at 531/- and Sri Gupta and Sri Dey's pay was fixed to Rs. 554/- as they fall under the provision of 30 days VDA . Hence there is no discrimination in fixation of wages of Sri B.K.Ram and Sri Dey and Sri Gupta. It is relevant to mention here that the anomaly always arises amongst two equal graded workmen and it is always treated as per merit. Hence the claim of Sri Ram may please be treated , as devoid of merit.

11. Short point to be decided in this reference is whether, the fixation of pay of the workman was anomalous, with comparison to his co-workman Shri K.K.Day and Sri M.N.Gupta, who are getting higher scale than the present workman in pay fixation.

12. It is stated by the management that M.N.Gupta and K.K.Day appointed as Security Guard monthly rated from 1973 whereas the present workman was appointed prior to 01.01.1975 as category –I Mazdoor at daily rated, for which the wage of his fellow worker is higher than him. Moreover daily rated workman is lower in grade than Security Guard. To Support that the management also files documents to that effect.

13. Shri K.K.Dey was appointed by letter No. CSO/ appointment/ SG/73/5413-17 dated 15.10.1973 and joined on 30.10.1973 as Security Guard and pay fixed at Rs. 140/- and Shri M.N.Gupta was appointed as Security Guard in the wage board scale of Rs. 140-3.170-4-178 vide letter No. CSO/Appointment/SG/73/2910-15 dated 6th June 1973 and he also joined at Rs. 140/- w.e.f 20.06.73 and both are on same pay scale. Whereas Sri B.K.Ram was appointed as Mazdoor vide letter No.KCW/Esstt/2899-/2905 dated 17.05.1974 and his initial basic pay fixed at Rs.5/- after that Rs. 10/- and on 01.01.1975 and on 01.01.76 at Rs. 10.20 as per Ext. M-1and W-1 series, and Sri Ram promoted to the post of semi skilled Labour in the scale of Rs 10.40-0.26-13/-

14. On perusal of all documents Sri Ram and Sri Gupta is appointed at different post and different scale to that effect it may be so that the workman is not entitled to get any thing and there was no anomaly in his pay fixation.

15. Considering the facts and circumstances of this case, I hold that the demand that there is anomaly in Basic Pay since Jan. 1977 of Sh. B.K.Ram, Ex-workman of Kargali Washery of M/S CCL is not justified. Accordingly he is not entitled to get any relief.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 817.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टिस्को लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 69/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/155/1995-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 817.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 69 of 1996) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. TISCO Ltd. and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/155/1995-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 69/1996

Employer in relation to the management of Tata Central Hospital, Jamadoba of M/s. TISCO

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 13/02/2017

AWARD

By order No. L-20012/155/1995-IR(C-I) dated 04/08/1996, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the management of Tata Central Hospital, Jamadoba of M/s Tisco Ltd. Is justified in not providing employment to the dependent son of Miss V. Minz, Staff Nurse? If not, to what relief is the said workman entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears by the workman subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 818.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 03/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/430/1997-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 818.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 03 of 1999) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/430/1997-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 03/1999

Employer in relation to the management of Lodna Colliery of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : Shri D.K. Verma, Advocate

For the workman : Shri S.C. Gour, Rep.

State : Jharkhand

Industry : Coal

Dated : 15/02/2017

AWARD

By Order No. L-20012 /430/1997-IR(C-1) dated 08/01/1999, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

”Whether the action of the management of Lodna colliery of M/s. BCCL , P.O-Lodna, Dhanbad in dismissing Sh. Ram Mallah w.e.f. 4.6.94 from the service of the company is justified? If not , to what relief the workman is entitled ?”

2. This Case is received from the Ministry on 21.01.1999. After receipt of the reference , both parties are noticed. But During the pendency of the case, the sponsoring Union submits that workman is not interested to contest the case. It is felt that the dispute between parties is resolved. Hence “No dispute” award is passed. communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 819.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 12/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/217/1998-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 819.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 12 of 1999) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/217/1998-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 12/1999

Employer in relation to the management of Godhur Colliery of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : Shri D.K. Verma, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 14/02/2017

AWARD

By Order No. L-20012/217/1998-IR(C-I) dated 27/01/1999, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the union for regularization of Sri B.N.Ganguli working in personnel Department of Godhar Colliery as Clerk is justified? If not, to what relief the workman is entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 820.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 135/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/397/1992-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 820.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 135 of 1995) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/397/1992-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 135/1995

Employer in relation to the management of Alkusha Colliery of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : / /2016

AWARD

By Order No. L-20012/397/1992-IR(C-I) dated 08/12/1995, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the Union for regularization/ employment of Sh. Ram Nandan Paswan and 50 others (as per list enclosed) as miners/ loaders by the management of Alkusa Colliery, Kustore Area No. VIII of M/s. BCCL. Is justified? If so, what relief the above mentioned persons are entitled to?”

SL.No	Name	SL.No	Name
1	Ram Nandan Paswan	2	Mahendra Paswan
3	Siveheren Paswan	4	Kamal Kishore Paswan
5	Dilip Kumar	6	Satish Paswan
7	Sanjukt Paswan	8	Kanilal Paswan
9	Anandi Paswan	10	Jodhi Paswan
11	Nanu Paswan	12	Pure Paswan
13	Suresh Paswan	14	Bijay Kr. Sao
15	Prasad Paswan	16	Ranjot Yadav
17	Suresh Paswan	18	Shyam kishore Paswan
19	Arvind Kr. Paswan	20	Kehendra paswan
21	Ramlagna Paswan	22	Balriki Paswan
23	Ram Sagar Paswan	24	Bachchu Paswan
25	Dilip Kr. Paswan	26	Kishori Paswan
27	Sivnandan Paswan	28	Ajay Kr. Sinha
29	Rarendra Paswan	30	Rajkumar Prasad
31	Deo Saran Paswan	32	Dayanand Paswan
33	Sunil Paswan	34	Kapurwa Kamin
35	Ramanand Bhuia	36	Savitri Devi
37	Surendra Bhuia	38	Narayan Rabidas
39	Leuta Bhuia	40	Sukhdeo Bhuia
41	Punit Yadav	42	Dulari Devi
43	Akashiya Devi	44	Pulchand Bhuia
45	Chhotan Bhuia	46	Sakhan Bhuia
47	Bijay Bhuia	48	Surjbelli Pal
49	Mahendra Thakur	50	Alakhdeo yadav
51	Ramawter Yadav		

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 821.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 58/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/488/2000-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 821.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 58 of 2001) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/488/2000-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 58/2001

Employer in relation to the management of Kustore Area, of M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer**Appearances:**

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 10 /02 /2017

AWARD

By Order No. L-20012/488/2000-IR(C-I) dated 19/02/2001, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/s. BCCL in terminating the services of the workman Sri. Amar Bouri, Miner Loader of Bhargora Project, is justified, legal and proper? If not, to what relief is the workman entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 822.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 136/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/67/1991-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 822.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 136 of 1994) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/67/1991-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 136/1994

Employer in relation to the management of Bhowra Coke Plant M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D. K. Verma, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 13 /02 /2017

AWARD

By Order No. L-20012/67/1991-IR(C-I) dated 30/05/1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the claim of Shri Premchand Goala dependant of late Badwa Goala who was a permanent employee of Bhowra Coke Plant for employment by the management of Bhowra Coke Plant of M/s. BCCL is justified and in order ? If not, whether the individual is entitled to any relief?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 823.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 19/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/205/1998-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 823.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 19 of 1999) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/205/1998-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 19/1999

Employer in relation to the management of Kusunda Area, M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 17 /01 /2017

AWARD

By Order No. L-20012/205/1998-IR(C-I) dated 29/01/1999, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Kusunda Area of M/s. BCCL. In not providing employment to the dependent son of Sri Ramdeo Nonia, Ex- Pump Operator- Godhur Colliery under Para- 9.4.3 of NCWA-IV is justified? If not, what relief the workman is entitled to ?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 21 मार्च, 2017

का.आ. 824.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 104/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.03.2017 को प्राप्त हुआ था।

[सं. एल-20012/331/1995-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 21st March, 2017

S.O. 824.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad (I.D. No. 104 of 1996) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 21.03.2017.

[No. L-20012/331/1995-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947

Reference: No. 104/1996

Employer in relation to the management of Shyampur Colliery, M/s. BCCL

AND

Their workman

Present : Shri R. K. Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand

Industry : Coal

Dated : 23 /01 /2017

AWARD

By Order No. L-20012/331/1995-IR(C-I) dated 07/11/1996, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand by the Union for employment of Smt. Sova Devi as a dependent of Lachhu Yadav who is absenting from duty since 2-7-1983, Under the provisions of NCWA is Legal and Justified? If so, to what relief is Smt. Shova Devi entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer